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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 212.

HORACE E. CONNITT AND CHARLES H. LARRABEE, APPELLANTS,

vs.

THE NATIONAL CITY BANK OF MILWAUKEE;

AND

No. 213.

HORACE E. CONNITT AND CHARLES H. LARRABEE, APPELLANTS,

vs.

THE NATIONAL CITY BANK OF MILWAUKEE.

APPEALS FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF WISCONSIN.

FILED DECEMBER 10, 1867.

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1 Circuit Court of the United States of America for the district of Wisconsin.

UNITED STATES OF AMERICA, *District of Wisconsin, ss:*

At a stated term of the District Court of the United States of America for the district of Wisconsin, begun and held according to law, on the first Monday of January, A. D. 1861, at the city of Milwaukee, in said district of Wisconsin. Present, the Hon. Andrew G. Miller, judge of said court, presiding; John M. Miller, clerk, and John H. Lewis, marshal for said district.

Among other, the following proceedings were had, to wit:

LINDLEY M. HOFFMAN, senior, complainant,
vs.
WILLIAM JOHNSON, MARGARET A. JOHNSON, Alexander Harper, Sarah Harper, Charles H. Larabee, Minerva Larabee, Horace H. Rich, Thomas Turton, John Sercomb, Charles Decker, James Seville, and Alvin F. Ordway, defendants. } In equity.

Be it remembered, that heretofore, to wit, on the 3d day of March, A. D. 1860, came the above-named complainant, by his solicitors, Messrs. Peckham & Bloodgood, and filed in the clerk's office of the said District Court his bill of complaint against the above-named defendants, as follows, to wit:

In chancery.

Bill of complaint.

To the judge of the District Court of the United States of America for the district of Wisconsin:

Lindley M. Hoffman, senior, of the city of New York, and a citizen of the State of New York, brings this his bill against William Johnson and Margaret A., his wife, Alexander Harper and Sarah, his wife, Charles H. Larabee and Minerva, his wife, Horace H. Rich, Thomas Turton, John Sercomb, Charles Decker, James Seville, Alvin F. Ordway, citizens of the State of Wisconsin, defend-
2 ants. And thereupon your orator complains and says, that heretofore, to wit, on the 19th day of January, 1859, at the city of Milwaukee, in the said district of Wisconsin, the said defendants, William Johnson, Alexander Harper, and Charles H. Larabee, composing the firm of Johnson & Co., of Horicon, Wisconsin, executed and delivered to Lindley M. Hoffman and John H. Stevens, of the city of New York, and citizens of the State of New York, a bond bearing date on the day last aforesaid, sealed with their seals, whereby they, the said William Johnson, Alexander Harper, and Charles H. Larabee, acknowledged themselves to be held and firmly bound unto the said John H. Stevens and Lindley M. Hoffman in the penal sum of six thousand dollars, to be paid to the said John H. Stevens

and Lindley M. Hoffman, or to their certain attorney, heirs, executors, administrators, or assigns, to which payment well and truly to be made, they, the said William Johnson, Alexander Harper, and Charles H. Larabee, bound themselves, their and each of their heirs, executors, and administrators, jointly and severally, firmly, by said presents, upon the condition that the said bond should be void, if the said obligers, their heirs and assigns, should well and truly pay, or cause to be paid to the said John H. Stevens and Lindley M. Hoffman, the amount of all monies that prior to the said date of said bond had been, or should thereafter be advanced, by the said John H. Stevens and Lindley M. Hoffman, to the said obligors, within one year next following the date of said bond, and should also well and truly pay all notes, bills of exchange, acceptances, or other evidences of debt which might be given by said obligors for such advances so to be made, and should also, at the expiration of one year from the date of said bond, well and truly pay, or cause to be paid to the said John H. Stevens and Lindley M. Hoffman, their heirs and assigns,

3 whatever balance of account should be found to be due by reason of such advances so to be made, or such notes, bills of exchange, acceptances, or other evidences of debt, as might be given by said obligors for or on account of any advances that shall have been made by said John H. Stevens and Lindley M. Hoffman to said obligors, or to any one on their account within the said year, then the said bond to be void, otherwise to remain in full force and virtue. And the said William Johnson and wife, Alexander Harper and wife, and Charles H. Larabee and wife, to secure the fulfillment of the said condition of the said bond, did, at the same time, duly execute, under their hands and seals, and deliver to the said John H. Stevens and Lindley M. Hoffman, a mortgage bearing even date with the said bond, by which said mortgage they, the said William Johnson, Alexander Harper, and Charles H. Larabee, and their said wives, granted, bargained, sold, and conveyed to the said John H. Stevens and Lindley M. Hoffman, their heirs and assigns, forever, the following real estate, being and lying in the county of Dodge and State of Wisconsin, and known and described as the east (60) sixty feet of lot number one, (1,) in block number three, (3,) in the south addition to the village of Horicon, with the water-power pertaining thereto, and the brick grist-mill erected thereon, together with the privileges and appurtenances to the same belonging, to have and to hold the same to the said John H. Stevens and Lindley M. Hoffman, their heirs and assigns, forever, upon the condition that if the said Alexander Harper and wife, William Johnson and wife, and Charles H. Larabee and wife, their heirs, executors, administrators, or assigns, should pay, or cause to be paid, to the said John H. Stevens and Lindley M. Hoffman, their heirs, executors, administrators, or assigns, the just and full sum of six thousand dollars, in one year from the date of said mortgage, or such amount as at the expiration of one year from the date thereof should be found to be due to the said John H. Stevens and Lindley M. Hoffman, for advances made, or to be made, by them to the said William Johnson, Alexander Har-

per, and Charles H. Larabee, according to the conditions of
4 the said bond, and should moreover pay annually to the proper officers all taxes which should be assessed on said real estate, then the said mortgage should be null and void. But in case of the non-payment of any sum of money (either of principal, interest, or taxes) at the time or times when the same should become due, agreeably to the condition of said mortgage or of the aforesaid bond, or any part thereof, then and in such the whole amount of said principal sum should, at the option of the said John H. Stevens and Lindley M. Hoffman, their representatives or assigns, be deemed to have become due, and the same, with interest thereon, at the rate aforesaid, should thereupon be collectable in a suit at law or by the foreclosure of the said mortgage, in the same manner as if the whole of said principal sum had been made payable at the time when any such failure in the payment should occur as aforesaid; and it should be lawful in such case for the said John H. Stevens and Lindley M. Hoffman, their heirs, executors, administrators, or assigns, to grant, sell, and convey the said real estate, with the appurtenances thereunto belonging, at public auction or vendue, and on such sale to make and execute to the purchaser or purchasers, his or their assigns, forever, good and sufficient deeds of conveyance in the law, pursuant to the statute in such case made and provided; and in case of the foreclosure of the said mortgage, the said William Johnson and wife, Alexander Harper and wife, and Charles H. Larabee, did therein and thereby covenant and agree, that they would pay to the said John H. Stevens and Lindley M. Hoffman, their representatives or assigns, in addition to the taxable costs in the foreclosure suit. fifty dollars, solicitor's fees. And your orators further show, that the execution of the said mortgage was duly acknowledged by the said William Johnson and wife, Alexander Harper and wife, and Charles H. Larabee and wife, and that the said mortgage was afterwards, to wit, on the 25th day of January, 1859, duly recorded in the office of the register of deeds of the county of Dodge, in said State of Wis-
5 consin, at 10 o'clock a. m., in vol. W of mortgages, pages 406 and 407.

And your orator further shows that the said bond and mortgage, together with all the moneys due or to grow due thereon, have been duly assigned to your orator for a valuable consideration, and are now held and owned by your orator.

And your orator further shows that the said William Johnson and wife, Alexander Harper and wife, and Charles H. Larabee and wife, have failed to comply with the conditions of the said bond and mortgage, but have made default therein, and there is now due your orator on said bond and mortgage the sum of four thousand seven hundred and forty dollars and sixty-nine cents, with interest on four thousand two hundred and eighty-nine dollars and eighty-four cents thereof from the first day of September 1859, being the balance due for moneys advanced by the said John H. Stevens and Lindley M. Hoffman to the said William Johnson, Alexander Harper and Charles H. Larabee prior to the assignment of said bond and mortgage to

your orator, and between the 15th December, 1858, and the 5th day of July, 1859, both dates inclusive, and upon acceptance and other evidences of debt given by the said defendants, William Johnson, Alexander Harper and Charles H. Larabee, during the period last aforesaid for such advances, and the further sum of forty dollars with interest thereon from the first day of November, 1859, being money advanced by your orator as the assignee of said bond and mortgage to the said William Johnson, Alexander Harper and Charles H. Larabee on the day last aforesaid, and that no proceedings at law have been had to recover the debt secured by the said bond and mortgage or any part thereof.

And your orator further shows unto your honor, that at the same time with the execution of the bond and mortgage hereinbefore described, to wit, on the 19th day of January, 1859, at the city of Milwaukee, in the said district of Wisconsin, the said defendants William Johnson, Alexander Harper and Charles H. Larabee, composing the firm of Johnson & Co., Horicon, Wis., executed and delivered to said Lindley M. Hoffman and John H. Stevens a bond bear-
6 ing date on the day and year last aforesaid, sealed with the seals of the said William Johnson, Alexander Harper, and Charles H. Larabee, whereby they the said obligors acknowledged themselves to be held and firmly bound unto the said John H. Stevens and Lindley M. Hoffman in the penal sum of six thousand dollars to be paid to the said obligees or to their certain attorney, heirs, executors, administrators, or assigns, to which payment well and truly to be made the said obligors bound themselves, their heirs, executors and administrators, and each of them jointly and severally firmly by said presents, upon the condition that the said bond should be void if the said obligors their heirs or assigns should well and truly pay or cause to be paid to the said John H. Stevens and Lindley M. Hoffman the just and full sum of three thousand dollars at the expiration of two years from the date of said bond with interest thereon at the rate of twelve per centum per annum, with leave, however, to the said obligors to pay said sum of three thousand dollars and interest as aforesaid, or any part thereof, in sums not less than five hundred dollars in each payment, at any time within the said two years, then the said obligation to be void, otherwise to remain in full force and effect.

And the said defendants, William Johnson and wife, Alexander Harper and wife, and Charles H. Larabee and wife to secure, the payment of the said sum of money mentioned in the condition of the said last said bond, with the interest thereon at the rate therein specified, did at the same time duly execute under their hands and seals, and deliver to the said John H. Stevens and Lindley M. Hoffman, a mortgage bearing even date with the said bond, by which said mortgage they the said defendants, William Johnson and Margaret A. his wife, Alexander Harper and Sarah his wife, Charles H. Larabee and Minerva his wife, granted, bargained, sold and conveyed to the said John H. Stevens any Lindley M. Hoffman, their heirs and assigns forever, the said premises and water privilege, with the appur-

7 tenances herein before particularly described, to have and to hold the same to the said John H. Stevens and Lindley M. Hoffman, their heirs and assigns forever, upon the condition that if the said Alexander Harper and wife, William Johnson and wife, Charles H. Larabee and wife, their heirs, executors, administrators, or assigns should pay or cause to be paid to the said John H Stevens and Lindley M. Hoffman, their heirs, executors, administrators or assigns, the just and full sum of three thousand dollars, at the expiration of two years from the date of said mortgage, with interest thereon, at the rate of twelve per cent. per annum, with leave to the said William Johnson and wife, Alexander Harper and wife and Charles H. Larabee and wife, the said mortgagors, to pay said sum and interest or any part thereof in sums not less than five hundred dollars in each payment, at any time within the said two years, according to the condition of the said last said bond, and should moreover pay annually to the proper officers all taxes which should be assessed on said real estate, then the said last said mortgage should be null and void. But in case of the non-payment of any sum of money, either of principal, interest or taxes, at the time or times when the same should become due, agreeable to the condition of the said last said mortgage, or of the said last said bond or any part thereof, then in such case the whole amount of said principal sum should at the option of the said parties of the second part, their representatives or assigns, be deemed to have become due, and the same with interest thereon at the rate aforesaid should be thereupon collectable in a suit at law, or by foreclosure of the said mortgage, in the same manner as if the whole of said principal sum had been made payable at the time when any such failure in the payment should occur, as aforesaid; and it should be lawful in such case for the said John H. Stevens and Lindley M. Hoffman, their heirs, executors, administrators or assigns, to grant, sell and convey the said mortgaged real estate, with

8 the appurtenances thereunto belonging, at public auction or vendue, and on such sale to make and execute to the purchaser or purchasers, his, her or their assigns forever, good and sufficient deeds of conveyance in the law pursuant to the statute in such case made and provided, and in case of the foreclosure of the said mortgage the said mortgagors therein for themselves and their representatives therein and thereby covenanted and agreed that they would pay to the said John H. Stevens and Lindley M. Hoffman, (the said mortgagees therein,) their representatives or assigns, in addition to the taxable costs in the foreclosure suit, fifty dollars solicitor's fees.

That said mortgage was duly acknowledged, and afterwards to wit, on the 25th day of January, 1859, duly recorded in the office of the register of deeds of the said county of Dodge, in volume "W" of mortgages, pages 407 and 408, at 10 o'clock, a. m.

And your orators further show that the said last said bond and mortgage, together with all the moneys due or to grow due thereon, have been duly assigned to your orator for a valuable consideration, and are now held and owned by your orator.

And your orator further shows to your honor that the said bonds

and mortgages were executed and delivered at the same time in pursuance of a single agreement between the parties thereto, and although the said mortgages are two instruments in form, they are in effect, and for the purposes of the foreclosure thereof by this suit should be treated as one mortgage, containing the respective conditions herein before recited.

And your orator further shows that the defendants Horace H. Rich, Thomas Fenton, John Sercomb, Charles Decker, James Seville, Alvin F. Ordway, have or claim to have some interest in the mortgaged premises, or some part thereof, as purchasers, mortgagees or otherwise, which interest, if any, have accrued subsequent to the
9 lien of the said mortgages of your orator, and are subject thereto.

Your orator therefore prays that the usual decree may be made for the sale of the mortgaged premises aforesaid, as if the said mortgages were one instrument or mortgage, containing the conditions hereinbefore set out, and for the payment of the amount due your orator for principal and interest upon first-described mortgage, together with the costs as therein specified, and that the said defendants and all persons claiming under them subsequent to the commencement of this suit, or who have liens by judgment or decree or otherwise upon the mortgaged premises subsequent to the said mortgages of your orator, or any liens or claims thereon by or under any such subsequent judgment or decree either as purchasers incumbrancers or otherwise, may be barred and foreclosed of all equity of redemption in the said premises, and that your orator may have such further or such other relief or both as the nature of the case may require and as to this court may seem proper and agreeable to equity.

May it please your honor to grant unto your orator a writ of subpœna commandiug the said William Johnson and Margaret A. his wife, Alexander Harper and Sarah his wife, Charles H. Larabee and Minerva his wife, Horace H. Rich, Thomas Fenton, John Sercomb, Charles Decker, James Seville, Alvin F. Ordway, by a certain day and under a certain penalty to be and appear before this honorable court, and then and there to answer the premises, and further to stand and abide such order and decree therein as shall be agreeable to equity and good conscience; and your orator shall ever pray, &c.

LINDLEY M. HOFFMAN, SR.
By PECKHAM & BLOODGOOD, *His Sol'rs.*
PECKHAM & BLOODGOOD,
Sol'rs for Comp'lt.
G. W. PECKHAM, *Of Counsel.*

Whereupon a subpœna issued, as follows:

10 UNITED STATES OF AMERICA,
District of Wisconsin, ss:

The President of the United States of America to William Johnson, Margaret A. Johnson, Alexander Harper, Sarah Harper, Charles H. Larrabee, Minerva Larrabee, Horace H. Rich, Thomas Turton, John Sercomb, Charles Decker, James Seville and Alvin F. Ordway, greeting:

You are hereby commanded, that you personally appear before the judge of the District Court of the United States of America for the district of Wisconsin, in our Court of Chancery, in and for the district aforesaid, on the first Monday of April next ensuing, at Milwaukee, to answer to a bill of complaint, exhibited against you in our said court, by Lindley M. Hoffman, senior. And to do further, and receive what our said court shall have cousidered in that behalf; and this you are not to omit under the penalty which may ensue.

This process of subpœna is directed to the marshal of this district, who is hereby commanded to serve the same upon the said William Johnson, Margaret A. Johnson, Alexander Harper, Sarah Harper, Charles H. Larrabee, Minerva Larrabee, Horace H. Rich, Thomas Turton, John Sercomb, Charles Decker, James Seville and Alvin F. Ordway, if to be found in his district, and due return thereof make.

Witness the Honorable Andrew G. Miller, judge of the District Court of the United States for the district of Wisconsin, at the city of Milwaukee, in the said district, this third day of March, in the year of our Lord one thousand eight hundred and sixty, and of our independence the eighty-fourth.

[SEAL.] J. M. MILLER, *Clerk.*
PECKHAM & BLOODGOOD, *Solicitors.*

It is ordered by our said court, that the said William Johnson, Margaret A. Johnson, Alexander Harper, Sarah Harper, Charles H. Larrabee, Minerva Larrabee, Horace H. Rich, Thomas Turton, John Sercomb, Charles Decker, James Seville and Alvin F. Ordway, the defendants aforesaid, do enter their appearance in this suit, in the clerk's office, on or before the day and time at which this subpœna is returnable, as aforesaid; otherwise the bill filed may be taken as confessed.

11 *Return to subpœna.*

Subpœna returned; served on the within-named Thomas Turton and John Sercomb, by delivering a copy of the subpœna to each of them, personally, this 7th day of March, 1860; served on the within named James Seville by delivering a copy of this subpœna to him personally this 8th day of March, 1860; the within-named Charles Decker not found, J. H. Lewis, marshal, by F. Henry, dep., fees $7 32; served on the within-named William Johnson and Margaret A. Johnson, his wife, by delivering a copy of this subpœna to Margaret A.

Johnson personally; and upon Alexander Harper and Sarah Harper, his wife, by delivering a copy of this subpœna to Alexander Harper, personally; and on Horace H. Rich, by delivering him personally a copy of this subpœna, this 9th day of March, 1860; and served on the within-named Charles H. Larabee, and Minerva Larabee, his wife, by leaving a copy with Minerva Larabee, personally, this 12th day of March, 1860; and served on Alvin F. Ordway, by delivering to him personally a copy of this subpœna this 10th day of May, 1860.

JOHN H. LEWIS,
U. S. Marshal.
By RANSON OLNEY, *Dep.*

Fees $15 60.

Rule to plead.

APRIL 2, 1860.

"On motion of Peckham & Bloodgood, solicitors for the complainant, ordered that the defendants plead, answer, or demur to the complainant's bill of complaint, now on file, by the first Monday of May next, or the same will be taken as confessed."

Appearance.

MAY 7, 1860.

This day came the defendants by their solicitors, Messrs. Carpenter and Gridley, and filed their appearance, as follows:

U. S. District Court, district of Wisconsin.

LINDLEY M. HOFFMAN
vs.
WILLIAM JOHNSON and MARGARET A., his wife, Charles H. Larabee, *et al.* } In chancery.

Please enter the appearance of the defendants in the above-entitled suit, and oblige,

Yours, &c.,
CARPENTER & GRIDLEY,
Df't's Sol'rs.

To JOHN M. MILLER, *Clerk.*

JULY 3, 1860.

This day came the defendants by their counsel, and on their
12 motion it is ordered by the court, that the time for filing their plea, answer, or demurrer be, and hereby is extended to the first Monday of August next.

Answer.

AUGUST 4, 1860.

This day came the defendants, William Johnson and Margaret A., his wife, Alexander Harper, and Sarah, his wife, and Charles H.

Larrabee and Minerva, his wife, by their said solicitors, and filed their answer, as follows:

In District Court of the United States for the district of Wisconsin.

LINDLEY M. HOFFMAN, senior,	]	
vs.	]	
WILLIAM JOHNSON, ALEXANDER Harper, Charles H. Larrabee and others, df'ts.	}	In equity

The joint answer of William Johnson, Margaret A., his wife, Alexander Harper and Sarah, his wife, Charles H. Larrabee and Minerva, his wife, to the bill of complaint of Lindley M. Hoffman senior, complainant.

These defendants now, and at all times hereafter, saving and serving unto themselves all and all manner of benefit and advantage of exceptions to the many uncertainties, irregularities and insufficiencies in said bill of complaint contained, for answer thereunto, or unto so much and such parts thereof as they are advised is or are material and necessary to be answered unto, answering say:

That they admit the execution and delivery of the said several bonds and mortgages, as in said bill of complaint averred, but these defendants further answering, say: that there is nothing due or payable upon the said bond secondly set forth in said bill of complaint, the time for payment thereon not yet having arrived.

These defendants, further answering, say, that previous to the execution and date of both the said bonds in said complaint mentioned, Lindley M. Hoffman and John H. Stevens, who were partners under the name of Hoffman & Stevens, agreed to and with William Johnson, Alexander Harper and Charles H. Larrabee, who were partners under the firm name of Johnson & Co., and it was by and between said firms mutually agreed that said Hoffman & Stevens should
13 and would advance to said Johnson & Co. money to carry on the milling business, which said Johnson & Co. were then engaged in, as the said Johnson & Co. should require up to the full amount of six thousand dollars, and continue said advance to that amount during the full term of one year from the day of the date of said first-named bond; and that said Johnson & Co. should invest said money so to be advanced in wheat, and have the privilege of grinding the same at their mill, and when said Johnson & Co. should thus have manufactured said flour, they should consign the same to said Hoffman & Stevens, to sell, (said Hoffman & Stevens being then engaged in the commission business), and that said Johnson & Co. should reserve and have, notwithstanding said consignment and advances, full and entire control over said flour and the sale thereof, so far as regarded the time and place of such sale; and that said Hoffman & Stevens should obey and keep the directions given from time to time by said Johnson & Co. to them, said Hoffman & Stevens, in that behalf; and it was further as aforesaid mutually agreed that said Hoffman & Ste-

vens should only sell the flour so consigned in Milwaukee, unless otherwise directed by Johnson & Co.; and that said first-named bond and mortgage was executed and delivered to secure said Hoffman & Stevens for any balance that might be their due from said Johnson & Co. for said advances, the said Hoffman & Stevens being allowed for all flour by them to be sold as aforesaid two and a-half per cent. upon the amount of sales as their commission, and they agreeing to credit the balance realized upon said sales to, and apply the same upon and in payment of, advances to be made as aforesaid.

And these defendants, further answering, say that said Hoffman & Stevens, disregarding said agreement and fraudulently intending to injure said Johnson & Co., did at Milwaukee, in said district, without any authority, direction or permission from said Johnson & Co., about the 1st day of May, 1859, ship and forward to New York, and elsewhere beyond the limits of the State and district of Wisconsin, for sale, about seven hundred barrels of flour so consigned by said Johnson & Co. to said Hoffman & Stevens, under said agreement;
14 and that said Hoffman & Stevens sold said flour out of said State without authority as aforesaid in the months of June and July, 1859, at prices ranging from five dollars 25 cents to five dollars and fifty cents per barrel nett, whereas said flour could and would have been sold during the same months in the city of Milwaukee, if said Hoffman & Stevens had kept and performed their said agreement at about seven dollars and thirty-five cents nett; whereby and by reason of the breach of said contract and agreement by said Hoffman & Stevens, the said Johnson & Co. were greatly injured and damaged, to wit, about twelve hundred and fifty dollars.

That about the 15th day of March, 1859, said Johnson & Co. purchased with funds advanced under said agreement about 5,000 bushels of wheat, at about a dollar and thirteen cents per bushel, and forwarded to said Hoffman & Stevens the warehouse receipts therefor as per said agreement, and that said Johnson & Co. could have floured said wheat at their said mill and had the same sold under said agreement, so to have made a clear profit of about twenty-one hundred dollars; but that said Hoffman & Stevens, intending and designing to cheat and defraud said Johnson & Co. in the premises, about the first of May, 1859, said Hoffman & Stevens refused to make further advances under said agreement, and took said 5,000 bushels of wheat without any authority whatever and sold and converted the same into cash.

And said defendants, further answering, say that they are informed and believe, and thereupon state and show, that said Hoffman & Stevens returned to Johnson & Co., and now pretend that they, said Hoffman & Stevens, sold said wheat at one dollar and thirty-five cents per bushel, but in truth and in fact, that said Hoffman & Stevens sold said wheat for one dollar and forty-five cents per bushel; and that by said fraudulent conduct of said Hoffman & Stevens said Johnson & Co. have been deprived of a credit they are entitled to, to the amount of five hundred dollars.

15 And the defendants, further answering, say that the said

complainant received the assignment of said bonds and mortgage in said bill of complaint first set forth, with full notice of all the matters and things in this answer set forth.

And these defendants deny all and all manner of unlawful combination and confederacy wherewith they are by the said bill charged, without this, that there is any other matter, cause or thing in the said complainant's said bill of complaint contained material or necessary for these defendants to make answer unto and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided or denied, is true to the knowledge or belief of these defendants; all which matters and things these defendants are ready and willing to aver, maintain, and prove, as this honorable court shall direct, and humbly prays to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

CARPENTER & GRIDLEY, *Sol'r for Def'ts.*
MATT. H. CARPENTER, *of Counsel.*

Replication.

SEPTEMBER 30, 1860.

This day came the complainant by his solicitors and filed his replication, as follows:

In the District Court of the United States of America for the district of Wisconsin, in chancery.

The replication of Lindley M. Hoffman, senior, complainant, to the joint answer of William Johnson, Margaret A. his wife, Alexander Harper and Sarah his wife, Charles H. Larabee and Minerva his wife, defendants.

This repliant, saving and reserving to himself now and at all times hereafter all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer for replication thereto, says that he will aver, maintain, and prove his bill of complaint to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by
16 this repliant, without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver, maintain, and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

PECKHAM & BLOODGOOD,
Sol'rs for Compl't.

And now at this same term, to wit, January term, 1861, and on the twenty-fourth day thereof, to wit, on the twelfth day of March, A. D. 1861, the following proceedings were had, to wit:

Prv. confesso as to H. H. Rich et als.

LINDLEY M. HOFFMAN, senior, *vs.* WILLIAM JOHNSON, MARGARET A. JOHNSON, Alexander Harper, Sarah Harper, Charles H. Larabee, Minerva Larabee, Horace H. Rich, Thomas Turton, John Sercomb, Charles Decker, James Seville, and Alvin F. Ordway.	In equity.

This day came the complainant by his counsel, and on his motion it is ordered by the court that this bill be and hereby is taken as confessed as to the defendants, Horace H. Rich, Thomas Turton, John Sercomb, James Seville, and Alvin F. Ordway, for their having failed to plead, answer, or demur thereto. And came the complainant and the defendants, William Johnson, Margaret A. Johnson, Alexander Harper, Sarah Harper, Charles H. Larrabee, and Minerva Larrabee, by their council, and filed their agreement as follows, to wit:

In the District Court of the United States of America, district of Wisconsin.

17 *Stipulation for Decree.*

LINDLEY M. HOFFMAN, senior, *v.* WILLIAM JOHNSON AND WIFE, Alexander Harper and wife, Charles H. Larabee and wife, and others, defendants.	

It is hereby stipulated that at the term of this court to be held in November, 1860, or at any future term of this court, the complainant may enter the usual decree for the sale of the mortgaged premises, and for the foreclosure of the mortgages mentioned and described in the bill of complaint in this cause; that the amount due upon said mortgages is as follows: The sum of ($4,730 69) four thousand seven hundred thirty dollars and sixty-nine cents, with interest thereon from the first of September, 1859, at the rate of seven per centum per annum; also the sum of forty dollars, ($40 00,) with interest thereon at the rate of seven per centum per annum from the 1st day of November, 1859; also the sum of one hundred and twenty dollars, with interest thereon from the 10th day of November, 1860, at the rate of seven per centum per annum; also the sum of three thousand dollars, with interest thereon from the 19th January, 1859, at

the rate of twelve per centum per annum. That the decree shall be entered for the sum total of the aforesaid sums with costs, and the solicitors' fees stipulated in said mortgages.

The items $40 00 and $120 00 above mentioned are for insurance on the mill, paid by the complainant.

It is further stipulated that no sale of the premises described in said bill of complainant shall be made under said decree before the expiration of one year from the date of this stipulation.

Dated November 21st, 1860.

FR. BLOODGOOD, *Compl'ts Sol'r.*
CARPENTER & GRIDLEY, *Sol. for Def'ts.*

18 Whereupon it is ordered by the court that it be referred to one of the masters of this court to compute, ascertain, and report the amount due the said complainant according to said agreement. And came John M. Miller, esq., the master to whom it was referred, and made report that the sum of nine thousand one hundred and seventy-seven dollars and eighteen cents is found due the said complainant, as follows:

19 District Court of the United States of America for the district of Wisconsin.

LINDLEY M. HOFFMAN, senior, *vs.* WILLIAM JOHNSON, MARGARET A. JOHNSON, Alexander Harper, Sarah Harper, Charles H. Larrabee, Minerva Larrabee, Horace H. Rich, Thomas Turton, John Sercomb, Charles Decker, James Seville, and Alvin F. Ordway.	In equity. Chancery, K, page 495.

To the judge of the District Court of the United States of America for the district of Wisconsin:

In pursuance and by virtue of an order of this court, made in the above cause, and bearing date the twelfth day of March, in the year of our Lord one thousand eight hundred and sixty-one, by which it was referred to me, being one of the masters of this court, to compute, ascertain and report the amount due to the complainant for principal and interest on the bonds and mortgages mentioned and set forth in the bill of complaint filed in this cause, according to the stipulation on file I do respectfully certify and report that I have been accompanied by the counsel for the complainant, and have computed and ascertained the sum of nine thousand one hundred and seventy-seven dollars and eighteen cents ($9,177 18) to be the amount due the complainant in the cause, on the said bonds and mortgages, for the principal and interest up to and including the date of this my report.

And I do further certify and report that the schedule hereunto annexed, marked "A," and making a part of this my report, contains a statement and account of the principal and interest moneys due to

the complainant as aforesaid, the period of the computation of the interest, and its rate; and to which for greater certainty I refer. All which is respectfully submitted.

March 12th, 1861.

J. M. MILLER,
Master in Chancery.

Shedule A, referred to in the preceding report.

Amount stipulated to be due with interest from Sept. 1, 1859	$4,730 69	
Interest 1 y. 6 m. 11 d., at 7 per cent. per annum	506 83	
		$5,237 52
Also, with int. from Nov. 1, 1859, the sum of	40 00	
Interest 1 y. 4 m. 11 d., at 7 per cent. per annum	3 82	
		43 82
Also, with int. from Nov. 10, 1860, the sum of	120 00	
Interest 4 m. 2 d., at 7 per cent. per annum	2 84	
		122 84
Also, with int. from Jan. 19, 1859, at 12 per cent. per annum	3,000 00	
Interest 2 y. 1 m. 23 d., at 12 per cent	773 00	
		3,773 00
Amount due this date		$9,177 18

J. M. MILLER,
Master in Chancery.

Milwaukee, March 12, 1861.

20 And said bonds and mortgages referred to in said master's report and in the bill of complaint are as follows, to wit:

Bond.

Know all men by these presents, that we, William Johnson, Alexander Harper, and Charles H. Larabee, composing the firm of Johnson & Co., of Horicon, State of Wisconsin, are held and firmly bound unto John H Stevens and Lindley M. Hoffman, of the city, county, and State of New York, in the penal sum of six thousand dollars, lawful money of the United States of America, to be paid to the said John H. Stevens and Lindley M. Hoffman, or to their certain attorney, heirs, executors, administrators or assigns, to which payment, well and truly to be made, we bind ourselves, our, and each of our heirs, executors and administrators, each and every of them, jointly and severally, firmly by these presents.

Sealed with our seals, and dated the nineteenth day of January, in the year of our Lord one thousand eight and fifty-nine.

The condition of this obligation is such, that if the above-named

obligors, their heirs and assigns, shall well and truly pay, or cause to be paid to the above-named John H. Stevens and Lindley M. Hoffman, the amount of all monies that have been or may be advanced by them to said obligors, within one year next following the date of this obligation, and shall also well and truly pay all notes, bills of exchange, acceptances, or other evidences of debt which may be given by said obligors for such advances so to be made, and shall also at the expiration of one year from the date hereof, well and truly pay or cause to be paid to said John H. Stevens and Lindley M. Hoffman, their heirs, and assigns, whatever balance of account may be found to be due by reason of such advances so to be made, or such notes, bills of exchange, acceptances, or other evidences of debt as may be given by said obligors for or on account of any advances that may be made by said Stevens and Hoffman, to said obligors, or to any one on their account within the said year, then this obligation to be void; otherwise, to remain in full force and virtue.

[SEAL.] WILLIAM JOHNSON.
[SEAL.] ALEX'R HARPER.
[SEAL.] CHAS. H. LARRABEE.

21 Signed, sealed, and delivered in the presence of—
JAMES O. PIERCE.
A. J. RISING.

Mortgage.

Know all men, that William Johnson and Margaret A., his wife, Alexander Harper and Sarah, his wife, Charles H. Larabee and Minerva N., his wife, parties of the first part, in consideration of one dollar in hand paid by John H. Stevens and Lindley M. Hoffman, of the city of New York, parties of the second part, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey to the said parties of the second part, their heirs and assigns forever, the following real estate, being and lying in the county of Dodge, and State of Wisconsin, and known and described as the east (60) sixty feet of lot number (1) one, in block number (3) three, in the south addition to the village of Horicon, with the water power pertaining thereto, and the brick grist mill erected thereon, together with the privileges and appurtenances to the same belonging, to have and to hold the same to the said parties of the second part, their heirs and assigns forever, hereby covenanting that the said parties of the first part will forever warrant and defend the same to the parties of the second part, their heirs and assigns, against all claims whatsoever; provided always, and these presents are upon this express condition, that if the said parties of the first part, their heirs, executors, or administrators, shall pay or cause to be paid to the said parties of the second part, their heirs, executors, administrators, or assigns, the just and full sum of six thousand dollars, in one year from the date hereof, or such amount as at the expiration of one year from the date hereof shall be found to be due to the parties of the second part for advances

made or to be made by them to William Johnson, Alexander Harper and Charles H. Larabee, three of the parties of the first part, according to the condition of a bond bearing even date herewith,
22 executed by the said parties, William Johnson, Alexander Harper, and Charles H. Larabee, three of the first part, to the said parties of the second part, and shall, moreover, pay annually to the proper officers all taxes which shall be assessed on said real estate, then these presents shall be null and void. But in case of the non-payment of any sum of money, (either of principal, interest, or taxes,) at the time or times when the same shall become due, agreeably to the condition of these presents, or of the aforesaid bond or any part thereof, then, in such case, the whole amount of said principal sum shall, at the option of the said parties of the second part, their representatives or assigns, be deemed to have become due, and the same, with interest thereon at the rate aforesaid, shall thereupon be collectable in a suit at law, or by foreclosure of this mortgage, in the same manner as if the whole of said principal sum had been made payable at the time when any such failure in the payment shall occur, as aforesaid, and it shall be lawful in such case for the said parties of the second part, their heirs, executors, administrators, or assigns, to grant, sell, and convey the said real estate, with the appurtenances thereunto belonging, at public auction or vendue; and on such sale to make and execute to the purchaser or purchasers, his, her, or their assigns forever, good and sufficient deeds of conveyance in the law, pursuant to the statute in such case made and provided; and in case of the foreclosure of this mortgage, the said parties of the first part, for themselves and their representatives, covenant and agree that they will pay to the said parties of the second part, their representatives or assigns, in addition to the taxable costs in the foreclosure suit, fifty dollars, solicitor's fees.

In witness whereof, the said parties of the first part have hereunto set their hands and seals this nineteenth day of January, in the year eighteen hundred and fifty-nine.

[SEAL.]	WILLIAM JOHNSON.
[SEAL.]	MARGARET A. JOHNSON.
[SEAL.]	ALEXANDER HARPER.
[SEAL.]	SARAH HARPER.
[SEAL.]	CHAS. H. LARRABEE.
[SEAL.]	MINERVA N. LARRABEE.

23 Signed, sealed, and delivered in presence of—
A. J. RISING.
MARY A. BROWN.

STATE OF WISCONSIN, *Dodge County*, *ss*:

On this twentieth day of January, A. D. 1859, personally came before me the above-named, the grantors in the above conveyance, to me known, and acknowledged that they executed the same freely and voluntarily, the said grantors being William Johnson, Margaret

A. Johnson, Alexander Harper, Sarah Harper, Chas. H. Larrabee, and Minerva N. Larrabee.

A. J. RISING,
Notary Public, Dodge Co., Wis.

Endorsed as follows: Register's office, Dodge Co., Wis. Recorded Jan'y 25th, 1859, at 10 o'clock a. m., in vol. W, of mortgages, on pages 406 and 407. D. W. Hall r'g'r.

Bond.

Know all men by these presents, that we, William Johnson, Alexander Harper, and Charles H. Larabee, composing the firm of Johnson & Co., of Horicon, State of Wisconsin, are held and firmly bound unto John H. Stevens and Lindley M. Hoffman, of the city, county, and State of New York, in the penal sum of six thousand dollars, lawful money of the United States of America, to be paid to the said John H. Stevens and Lindley M. Hoffman, or to their certain attorney, heirs, executors, administrators, or assigns, to which payment, well and truly to be made, we bind ourselves, our and each of our heirs, executors and administrators, each and every of them jointly and severally, firmly by these presents.

Sealed with our seals, and dated the nineteenth day of January, in the year of our Lord one thousand eight hundred and fifty-nine.

The condition of this obligation is such, that if the above-named obligors, their heirs or assigns, shall well and truly pay or
24 cause to be paid to the above-named John H. Stevens and Lindley M. Hoffman the just and full sum of three thousand dollars at the expiration of two years from the date hereof, with interest thereon at the rate of twelve per cent. per annum, (with leave however to the said obligors to pay said sum of three thousand dollars and interest as aforesaid, or any part thereof in sums not less than five hundred dollars in each payment, at any time within the said two years,) then this obligation to be void; otherwise, to remain in full force and effect.

[SEAL.] WILLIAM JOHNSON.
[SEAL.] ALEXANDER HARPER.
[SEAL.] CHARLES H. LARRABEE.

Signed, sealed, and delivered in the presence of—
JAMES O. PIERCE.
A. J. RISING.

Mortgage.

Know all men, that William Johnson, and Margaret A., his wife, Alexander Harper, and Sarah his wife, and Charles H. Larabee, and Minerva N., his wife, parties of the first part, in consideration of one dollar in hand, paid by John H. Stevens and Lindley M. Hoffman, of

the city, county, and State of New York, parties of the second part, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey to the said parties of the second part, their heirs and assigns forever, the following real estate, being and lying in the county of Dodge, and State of Wisconsin, and known and described as the east sixty feet of lot number one, (1,) in block number three, (3,) in the south addition to the village of Horicon, with the water power pertaining thereto, and the brick grist mill erected thereon, together with the privileges and appurtenances to the same belonging, to have and to hold the same to the said parties of the second part, their heirs and assigns forever, hereby covenanting that the said parties of the first part will forever warrant and defend the same to the said parties of the second part, their heirs and assigns, against all claims whatsoever; provided always, and these presents are upon this express condition, that if the said parties of the
25 first part, their heirs, executors, or administrators shall pay, or cause to be paid to the said parties of the second part, their heirs, executors, administrators, or assigns, the just and full sum of three thousand dollars at the expiration of two years from the date hereof, with interest thereon at the rate of twelve per cent. per annum, with leave, however, to the said parties of the first part to pay said sum and interest, or any part thereof, in sums not less than five hundred dollars in each payment at any time within the said two years, according to the condition of a certain bond bearing even date herewith, executed by William Johnson, Alexander Harper, and Charles H. Larabee, three of the said parties of the first part, to the said parties of the second part, and shall, moreover, pay annually to the proper officers all taxes which shall be assessed on said real estate, then these presents shall be null and void. But in case of the non-payment of any sum of money, (either of principal, interest, or taxes, at the time or times when the same shall become due agreeably to the condition of these presents, or of the aforesaid bond or any part thereof,) then, in such case, the whole amount of said principal sum shall, at the option of the said parties of the second part, their representatives or assigns, be deemed to have become due, and the same, with interest thereon at the rate aforesaid, shall thereupon be collectable in a suit at law, or by foreclosure of this mortgage, in the same manner as if the whole of said principal sum had been made payable at the time when any such failure in the payment shall occur as aforesaid; and it shall be lawful in such case for the said parties of the second part, their heirs, executors, administrators or assigns, to grant, sell and convey the said real estate, with the appurtenances thereunto belonging, at public auction or vendue; and on such sale to make and execute to the purchaser or purchasers, his, her,
26 or their assigns forever, good and sufficient deeds of conveyance in the law, pursuant to the statute in such case made and provided; and in case of the foreclosure of this mortgage, the said parties of the first part, for themselves and their representatives, covenant and agree that they will pay to the said parties of the

second part, their representatives or assigns, in addition to the taxable costs in the foreclosure suit, fifty dollars, solicitor's fees.

In testimony whereof, the said parties of the first part have hereunto set their hands and seals this 19th day of January, in the year eighteen hundred and fifty-nine.

[SEAL.] WILLIAM JOHNSON.
[SEAL.] MARGARET A. JOHNSON.
[SEAL.] ALEXANDER HARPER.
[SEAL.] SARAH HARPER.
[SEAL.] CHAS. H. LARRABEE.
[SEAL.] MINERVA N. LARRABEE.

Signed, sealed, and delivered in the presence of—
A. J. RISING.
MARY A. BROWN.

STATE OF WISCONSIN, *Dodge County, ss:*

On this twentieth day of January, A. D. 1859, personally came before me the above-named, the grantors in the above conveyance, to me known, and acknowledged that they executed the same freely and voluntarily, the said grantors being William Johnson, Margaret A. Johnson, Alexander Harper, Sarah Harper, Chas. H. Larrabee and Minerva N. Larrabee.

A. J. RISING,
Notary Public, Dodge Co., Wis.

The following agreement is endorsed on said mortgage:

It is agreed that in case the parties of the first part fail to have the building or grist mill erected on the premises within described insured to the amount of three thousand dollars and assign the policy to the parties of the second part, then the parties of the second part may procure such insurance in their own names, and the amount of premium therefor paid by the parties of the second part shall
27 be collected upon this mortgage and be deemed to be part of the money secured thereby, and the parties of the first part agree to procure said mill to be insured for the sum of $3,000 in some good responsible insurance company, and assign the policy or policies to said parties of the second part as additional security for the amount secured by this mortgage.

Jan'y 19th, 1859.

WILLIAM JOHNSON.
ALEXANDER HARPER.
CHARLES H. LARRABEE.

REGISTER'S OFFICE, DODGE CO., WIS.

Recorded Jan'y 25th, 1859, at 10 o'clock a. m. in vol. W of mortgages, on pages 407 and 408.

D. W. HALL, *R'g'r.*

28 UNITED STATES OF AMERICA, *District of Wisconsin, ss:*

At a stated term of the District Court of the United States of America for the district of Wisconsin, begun and held according to law, on the first Monday of January, A. D. 1861, at the city of Milwaukee, in said district of Wisconsin.

Present, the Hon. Andrew G. Miller, judge of said court, presiding.

On the twenty-fourth day of the term, to wit, on the twelfth day of March, A. D. 1861, the following proceedings were had, to wit:

LINDLEY M. HOFFMAN, senior,
vs.
WILLIAM JOHNSON, MARGARET A. JOHNSON, Alexander Harper, Sarah Harper, Charles H. Larabee, Minerva Larabee, Horace H. Rich, Thomas Turton, John Sercomb, Charles Decker, James Seville, and Alvin F. Ordway.

This day this cause came on to be heard at this term upon the bill taken as confessed as to the defendants, Horace H. Rich, Thomas Turton, John Sercomb, James Seville, and Alvin F. Ordway, and upon the agreement in writing filed of the defendants, William Johnson, Margaret Johnson, Alexander Harper, Sarah Harper, Charles H. Larabee and Minerva Larabee, and was argued by counsel, and thereupon, upon consideration thereof it was ordered, adjudged and decreed by the court as follows, to wit, that the report of John M. Miller, a master of this court wherein the sum of nine thousand one hundred and seventy-seven dollars and eighteen cents appears to be due to the said complainant at the date of said report on the bonds and mortgages in said bill mentioned for principal and interest, be and is hereby confirmed.

It is, therefore, on motion of George W. Peckham, of counsel for said complainant, further ordered, adjudged, and decreed, and this court doth hereby order, adjudge, and decree that all and singular the mortgaged premises mentioned in the bill of complaint in this cause and hereinafter described, or so much thereof as may be sufficient to raise the amount due to the complainant for principal, interest, and costs in the cause, (and which may be sold separately without material injury to the parties interested,) be sold at public auction under the direction of the marshal for this district, unless said mortgagor previous to such sale shall pay to said complainant the said sum of nine thousand one hundred and seventy-seven dollars and eighteen cents, and interest thereon from this date, together with the costs in this cause to be taxed.

And it is further ordered that said sale may be made at the post office in the city of Milwaukee, within this district; and that said marshal gave public notice of the time and place of such sale by advertisement published in some newspaper printed in the county of Dodge, at least once in every two weeks for three months previous to the day of sale; and if no newspaper be printed in such county, then such notice shall be published in a newspaper published in an

adjoining county in said district; and that said complainant or any of the parties to this cause may become the purchaser thereof; and that said marshal execute a deed or deeds to the said purchaser or purchasers of the mortgaged premises, and that said marshal pay to said complainant or his solicitor out of the proceeds of such sale his costs in this cause to be taxed, and also the aforesaid sum of nine thousand one hundred and seventy-seven dollars and eighteen cents, and interest thereon from this date to the day of such sale, or so much thereof as the purchase money of the mortgaged premises will pay, and that said marshal take a receipt for the amount so paid and file the same with his report of sale; and that he bring the surplus moneys, if any there be, into court without delay, to abide the further order of the court.

And it is further ordered, adjudged and decreed, that the defendants and all persons claiming, or to claim from or under them be forever barred and foreclosed of and from all equity of redemption and claim of in and to said mortgaged premises, and every part and parcel thereof.

And it is further ordered and decreed, that the purchaser or purchasers of said mortgaged premises at such sale be let into the possession thereof; and that any of the parties to this cause who may be in possession of said premises, or any part thereof, and any person who since the commencement of this cause has come into possession under them, or either of them, deliver possession thereof to such purchaser or purchasers, on production of the deed of said marshal for such premises, and a certified copy of the order confirming the report of sale in this cause.

And it is further ordered and decreed, that if the moneys arising from such sale are insufficient to pay the amount due to the complainant as aforesaid, with interest and costs, that the said marshal specify the amount of such deficiency in his report of the sale, and that on the coming in and confirmation of said report, the defendants, William Johnson, Alexander Harper, and Charles H. Larabee, who are personally liable for the payment of the debt secured by said mortgage, pay to the complainant the amount of such deficiency, with interest thereon from the date of such report; and that the complainant may have execution therefor.

The description of the property authorized to be sold under and by virtue of this decree, so far as the same can be ascertained from the mortgage above referred to, or from the bill of complaint in this cause, is as follows, viz:

The following real estate, being and lying in the county of Dodge, and State of Wisconsin, and known and described as the east (60) sixty feet of lot number one (1) in block number three (3) in
29 the south addition to the village of Horicon, with the water power pertaining thereto, and the brick grist mill erected thereon.

A. G. MILLER.

Decree signed, recorded and enrolled, March 12th. A. D. 1861.

J. M. MILLER, *Clerk.*

30 *Letter of administration to William O. Hoffman.*

AUGUST 25, 1863.

Certified copy of letters of administration granted to William O. Hoffman upon the goods, chattels, and credits of Lindley M. Hoffman, deceased, filed as follows:

"The people of the State of New York to William O. Hoffman, of the city of New York, the son of Lindley M. Hoffman, send greeting:

"Whereas said Lindley M. Hoffman lately departed this life intestate, being at or immediately previous to his death an inhabitant of the county of New York, by means whereof the ordering and granting administration of all and singular the goods, chattels and credits, whereof the said intestate died possessed, in the State of New York, and also the auditing, allowing and final discharging the account thereof, doth appertain unto us; and we being desirous that the goods, chattels and credits of the said intestate may be well and faithfully administered, applied and disposed of, do grant unto you, the said William O. Hoffman, full power by these presents to administer and faithfully dispose of all and singular the said goods, chattels and credits; to ask, demand, recover and receive the debts which, unto the said intestate, whilst living, and at the time of his death did belong; and to pay the debts which the said intestate did owe, as far as such goods, chattels and credits will thereunto extend and the law require; hereby requiring you to make, or cause to be made, a true and perfect inventory of all and singular the goods, chattels and credits of the said intestate within a reasonable time, and return a duplicate thereof to our surrogate of the county of New York within three months from the date of these presents; and if further personal property or assets of any kind not mentioned in any inventory that shall have been so made shall come to your possession or knowledge, to make or cause to be made, in like manner, a true and perfect inventory thereof, and return the same within two months after the discovery thereof, and also to render a just and true account of administration when thereunto required; and we do, by these presents depute, constitute and appoint you, the said William O. Hoffman, administrator of all and singular the goods, chattels and credits of the said Lindley M. Hoffman, deceased.

In testimony whereof, we have caused the seal of office of
31 the surrogate of said county to be hereunto affixed.

Witness, Edward C. West, surrogate of said county, at the city of New York, the nineteenth day of June, in the year of our Lord one thousand eight hundred and sixty-one, and of our independence the eighty-fifth.

[L. S.] EDW. C. WEST, *Surrogate.*

STATE AND COUNTY OF NEW YORK, *Surrogate's Office, ss:*

I, Edward C. West, surrogate of said county, and acting as clerk of the Surrogate's Court, do hereby certify that I have compared the foregoing copy of letters of administration granted to William O.

Hoffman upon the goods, chattels, &c., of Lindley M. Hoffman, deceased, with the original record thereof, now remaining in this office, and have found the same to be a correct transcript therefrom, and of the whole of such original record.

In testimony whereof, I have hereunto set my hand and affixed my seal of office this 22d day of March, in the year of our Lord one thousand eight hundred and sixty-two and of our independence the eighty-sixth.

[L. S.] EDW. C. WEST, *Surrogate.*

STATE AND COUNTY OF NEW YORK, *Surrogate's Court, ss:*

I, Edward C. West, surrogate of said county and presiding magistrate of the Surrogate's Court, do hereby certify that the foregoing exemplification of letters of administration granted to William O. Hoffman upon the goods, chattels, &c., of Lindley M. Hoffman, deceased, is authenticated in due form.

In testimony whereof, I have hereunto set my hand and affixed the seal of the Surrogate's Court the 22d day of March, in the year of our Lord one thousand eight hundred and sixty-two and of our independence the eighty-sixth.

EDW. C. WEST, *Surrogate.*

Assignment of decree to W. G. Cutler and D. C. Conkey.

And same day, (August 25th, 1863,) assignment of decree to Wm. G. Cutler and D. C. Conkey, from Wm. O. Hoffman, filed as follows:

Whereas in a certain suit depending in the District Court of the United States of America for the district of Wisconsin, wherein Lindley M. Hoffman was the complainant, and William Johnson and Margaret A. his wife, Alexander Harper and Sarah, his wife,
32 Charles H. Larabee and Minerva, his wife, Harace H. Rich, Thomas Turton, John Sercomb, Charles Decker, James Seville and Olvin F. Ordway, were the defendants, for the foreclosure of two mortgages, a decree was entered on the 12th day of March, 1860, for nine thousand three hundred seventeen 20-100 dollars, in favor of said complainant, in the usual form, for a foreclosure and sale of the mortgaged premises, &c., &c.

And whereas the said complainant, Lindley M. Hoffman, has since deceased, and William O. Hoffman, has been duly appointed the administrator of the estate and effects of said deceased.

And whereas on the 6th day of March, 1862, there was due on said decree a balance of six thousand nine hundred and thirteen dollars; and whereas on or about said 6th March, 1862, the said W. O. Hoffman, as such administrator, assigned to one Chauncey Brown, of Horicon, Dodge county, Wisconsin, an interest in said decree to the extent of four thousand dollars, with interest on said last sum from said 6th March, 1862, the said administrator still retaining an interest in said decree to the extent of two thousand nine hundred and thirteen dollars, with interest on said last sum from the said 6th

March, 1862: Now, therefore, these presents witnesseth, that the said William O. Hoffman, administrator, &c., of the estate of the said Lindley M. Hoffman, deceased, in consideration of two thousand nine hundred and thirteen dollars to him in hand paid, the receipt whereof he doth hereby acknowledge, doth by these presents assign, sell, transfer, and set over to William G. Cutler and De Wit C. Conkey, of Milwaukee, Wisconsin, all the right, title, and interest of the said administrator in the said decree, and the money due, or to grow due thereon, it having been agreed between the said administrator, the said Brown, and the said Cutler and Conkey, and it being the condition of this assignment that the said interest in said decree hereby assigned is subject and second to that heretofore assigned to said Brown. The interest in said decree, hereby assigned, is two thousand nine hundred thirteen dollars, with interest from March 6, 1862, subject to the prior interest therein assigned to the said Chauncey Brown; that is, the said interest of two thousand nine hundred and thirteen dollars, with interest on said last sum from the 6th March, 1862, is subject to the condition that all moneys collected or paid on said decree shall first be applied in the payment of the said sum of $4,000 00, (four thousand dollars,) with interest from March 6, 1862, assigned to said Brown as aforesaid.

33 Witness the hand and seal of the said administrator this 24th June, 1862.

[SEAL.] W. O. HOFFMAN, *Administrator.*

In presence of—
JOHN L. RUTGERS.

Assignment of decree from W. G. Cutler & D. C. Conkey to Jas. H. Conkey.

And same day (August 25, 1863) assignment of decree from W. G. Cutler & D. C. Conkey to Jas. H. Conkey filed, as follows:

Whereas, in a certain suit depending in the District Court of the United States in and for the district of Wisconsin, wherein Lindley M. Hoffman was the complainant, and William Johnson, and Margaret A. his wife, Alexander Harper and Sarah, his wife, Charles H. Larrabee and Minerva, his wife, Horace H. Rich, Thomas Turton, John Sercomb, Charles Decker, James Seville, and Olvin F. Ordway were the defendants, for the foreclosure of two mortgages, a decree was entered on the 12th day of March, A. D. one thousand eight hundred and sixty, for nine thousand three hundred and seventeen dollars and twenty cents ($\$9,317\frac{20}{100}$,) in favor of said complainant, in the usual form, for a foreclosure and sale of the mortgaged premises; and whereas the said complainant, Lindly M. Hoffman, has since deceased, and William O. Hoffman has been duly appointed the administrator of the estate and effects of said deceased; and whereas, on the sixth day of March, A. D. one thousand eight hundred and sixty-two, there was due on said decree a balance of six thousand nine hundred and thirteen dollars; and whereas, on or about the said sixth day of March, A. D. one thousand eight hundred and sixty-

two, the said William O. Hoffman, as such administrator, assigned to one Chauncey Brown, of Horicon, Dodge county, Wisconsin, an interest in said decree to the extent of four thousand dollars, ($4,000,) with interest on said last sum from the said sixth March, 1862, the said administrator still retaining an interest in said decree to the extent of two thousand nine hundred and thirteen dollars, with interest on said last sum from the sixth day of March, one thousand eight hundred and sixty-two;

And whereas, on or about the 24th day of June, A. D. one thousand eight hundred and sixty-two, by an instrument in writing, bearing date on said day, the said William O. Hoffman, administrator as aforesaid, did in consideration of two thousand nine hundred
34 and thirteen dollars, ($2,913,) to him paid, assign and transfer to William G. Cutler and De Wit C. Conkey, of Milwaukee, Wisconsin, all the right, title, and interest of the said administrator in the said decree, and the moneys due or to grow due thereon;

And whereas it was stated and agreed, in and by said instrument, in writing, that the said interest in said decree thereby assigned was subject and second to that theretofore assigned to the said Chauncey Brown;

Now, therefore, these presents witnesseth, that the said William G. Cutler and Dewit C. Conkey, of Milwaukee, Wisconsin, in consideration of the sum of two thousand nine hundred and thirteen dollars, to them in hand paid, do by these presents hereby sell, transfer, assign, and set over to James H. Conkey, Horicon, Dodge county, Wisconsin, all and singular, their interest, title, and estate, of, in, and to the said decree and the moneys due or to grow due thereon, subject to the same rights of priority in the said Chauncey Brown as hereinbefore, and in the said instrument in writing assigning the interest of the said William O. Hoffman, administrator to the said William G. Cutler and Dewit C. Conkey specified.

In witness whereof, the said William G. Cutler and Dewitt C. Conkey have hereunto set their hand and seals this twenty-sixth day of September, A. D. one thousand eight hundred and sixty-two.

[SEAL.] W. G. CUTLER.
[SEAL.] D. C. CONKEY.

In presence of—
K. C. PARDEE.

Assignment from Jas. H. Conkey to Juneau Bank.

FEBRUARY 23, 1864.

Assignment from Jas. H. Conkey to Juneau Bank, filed as follows:

Whereas in a certain suit pending in the District Court of the United States in and for the district of Wisconsin, wherein Lindley M. Hoffman was the complainant, and William Johnson and Margaret A., his wife, Alexander Harper and Sarah, his wife, Charles H. Larabee and Minerva, his wife, Horace H. Rich, Thomas Turton, John Sercomb, Charles Decker, James Seville and Oliver F. Ordway, were

the defendants for the foreclosure of two mortgages, a decree was entered on the twelfth day of March, A. D. one thousand eight hundred and sixty, for nine thousand three hundred and seventeen dollars and twenty cents, ($9,317 20-100,) in favor of said
35 complainant, in the usual form for a foreclosure and sale of the mortgaged premises; and whereas the said complainant, Lindley M. Hoffman, has since deceased, and William O. Hoffman has been duly appointed the administrator of the estate and effects of said deceased, and whereas on the sixth day of March, A. D. 1862, there was due on the said decree a balance of six thousand nine hundred and thirteen dollars; and whereas, on or about the said sixth day of March, A. D. 1862, the said William O. Hoffman, as such administrator, assigned to one Chauncey Brown, of Horicon, Dodge county, Wisconsin, an interest in said decree to the extent of four thousand dollars, ($4,000,) with interest on said last sum from the said sixth of March, A. D. 1862, the said administrator still retaining an interest in said decree to the extent and amount of two thousand nine hundred and thirteen dollars, ($2,913,) with interest on said last-named sum from said sixth day of March, A. D. 1862, as aforesaid; and whereas, on or about the twenty-fourth day of June, A. D. 1862, by an instrument of assignment in writing, bearing date on said last-named day, said William O. Hoffman, as administrator as aforesaid, did, in consideration of two thousand nine hundred and thirteen dollars, ($2,913,) to him paid, sell, assign and transfer to William G. Cutler and De Witt C. Conkey, of Milwaukee, Wisconsin, all the right, title and interest of him the said administrator in and to said decree and the moneys due or to grow due thereon, subject and second nevertheless to the interest theretofore assigned by said [by said] administrator to said Chauncey Brown, in said decree as aforesaid; and whereas, said William G. Cutler and De Wit C. Conkey, on the sixth day of September, A. D. 1862, by an instrument of assignment in writing duly assigned and transferred, said interest in said decree so as aforesaid assigned by said administrator to said William G. Cutler and De Wit C. Conkey to James H. Conkey, for a valuable consideration:

Now therefore these presents witness, that said James H. Conkey, of Horicon, Dodge county, Wisconsin, for and in consideration
36 of the sum of two thousand nine hundred and thirteen dollars, ($2,913,) with the interest thereon from the twelfth day of March, A. D. 1860, to him in hand paid, doth by these presents hereby sell, assign, transfer and set over, to "The Juneau Bank," at Milwaukee, Wisconsin, all his right, title and interest in and said decree as aforesaid, and all the moneys due or to grow due thereon, subject nevertheless to the same right of priority in the said Chauncey Brown, as herein before mentioned and as specified in the said instrument in writing, assigning the said interest by the said William O. Hoffman, administrator to said William G. Cutler and De Wit C. Conkey, hereby authorizing said bank to enforce said decree to the extent of said interest the same as I might lawfully do.

In witness whereof, the said James H. Conkey has hereunto set his hand and seal this twenty-third day of February, A. D. 1864.

[L. S.] J. H. CONKEY.

In presence of—

C. W. BENNETT.

At a stated term of the Circuit Court of the United States of America for the district of Wisconsin, begun and held according to law at the city of Milwaukee, on the second Monday of April, A. D. 1867. Present, the Honorable Andrew G. Miller, Judge of the District Court, presiding. And on the twentieth day of said term, to wit, on the third day of June, A. D. 1867, the following proceedings were had, to wit:

CHAUNCEY BROWN and THE NATIONAL CITY Bank of Milwaukee, assignees of William O. Hoffman, adm'r of the estate of Lindley M. Hoffman, sen'r, deceased,
vs.
WILLIAM JOHNSON, MARGARET A. JOHNSON, *et al.*
} In equity.

This day came The National City Bank of Milwaukee, by its counsel, Messrs. John W. and A. L. Cary, and presented its petition in writing as herein filed, setting forth that there was remaining unpaid on this decree the sum of six thousand nine hundred and thir-
37 teen dollars, ($6,913,) with interest thereon from the sixth day of March, A. D. 1862; that four thousand dollars, part thereof, has been assigned to Chauncey Brown, and the residue thereof to said bank, and praying that the marshal be ordered to sell the mortgaged premises, according to said decree, for said balance with interest, which petition is as follows:

Circuit Court of the United States for the district of Wisconsin.

Petition of Nat. City Bank for an order of sale.

LINDLEY M. HOFFMAN, senior,
vs.
WILLIAM JOHNSON & OTHERS.

To the judges of the Circuit Court of the United States for the district of Wisconsin:

The petition of the National City Bank of Milwaukee, a corporation formed under the laws of the United States, respectfully shows, that it is the successor of the Juneau Bank, a corporation heretofore existing under the laws of the State of Wisconsin, and is entitled to the possession and is the owner of all the rights, property and chattels which were of said Juneau Bank.

And shows that on information and belief, on the 12th day of March, 1861, one Lindley M. Hoffman, senior, the complainant in this suit, obtained a decree of foreclosure in the District Court of said district in this action for $9,177 18, besides $140 02 costs. That afterwards and prior to the 6th day of March, 1862, the said complainant died, and William O. Hoffman was appointed by the surrogate of the city

of New York his administrator, and duly qualified and filed a copy of his said appointment in this cause. That the amount then due on said decree, to wit, March 6th, 1862, was $6,913.

That on said last-named day said administrator assigned $4,000 of said amount to one Chauncey Brown, and gave it a priority of lien over the balance of said decree.

That on the 24th day of June, 1862, said administrator assigned the balance of said decree to William G. Cutler and De Wit
38 C. Conkey, subject to Brown's said interest, and that on the 26th day of September, 1862, said William G. Cutler and D. C. Conkey assigned their interest to James H. Conkey, and that on the 23 day of February, 1864, said James H. Conkey assigned his interest in said decree to the said Juneau Bank, and that all of said assignments are now of record and on file with the clerk of this court in this cause.

Your petitioner further shows, on information and belief, that the said sum of $6,913, with interest thereon from the 6th day of March, 1862, still remains due and unpaid on said decree, and that of that amount the said sum of two thousand nine hundred and thirteen dollars, with interest thereon from the said 6th day of March, 1862, belongs to, and is owned by, your petitioner.

Your petitioner therefore prays that such proceedings may be had in this cause that the marshal of said district may be directed to sell said mortgage premises, as directed in and by said decree, and out of the proceeds arising from said sale may be directed to pay the said sum of $4,000, and interest from the 6th day of March, 1862, or so much thereof as remains unpaid, to the said Chauncey Brown, or his personal representatives or assigns, and that he may pay your petitioner the said sum of $2,913 and interest, as aforesaid, and bring the residue thereof into court, as directed by said decree; and your petitioner will ever pray, &c.

NAT'L CITY BANK.
By F. C. BELLINGER, *Cas.*
JOHN W. & H. L. CARY,
Sol'rs for Petitioner.

DISTRICT OF WISCONSIN, *ss :*

On this 3d day of June appeared before me F. C. Bellinger, and made oath that he was the cashier of the petitioner; that he had heard read the foregoing petition, and knew the contents thereof, and that the same was true, except the matters therein stated on information and belief, and as to those matters he believes it to be true.

J. M. MILLER,
U. S. Commissioner, Wisconsin.

39 I admit service of the within and notice of motion to the court as therein prayed.
June 3d, 1867.

M. H. CARPENTER,
Of CARPENTER & GRIDLEY.

Order of June 3, 1867.

Whereupon, it is ordered, adjudged, and decreed by the court that the marshal proceed to advertise said mortgaged premises, and sell the same for the payment of the said balance of six thousand nine hundred and thirteen dollars, with interest from the sixth day of March, 1862, the same as if this said sum had been the original amount called for in said decree; and he shall return and pay into court the proceeds of sale, after deducting therefrom the legal fees and expenses thereof. And it is further ordered that the foregoing be recorded at the foot of said decree.

Petitions of Connit and Rich to set aside above order.

September 16, 1867, petitions of Horace E. Connitt and H. H. Rich for an order to set aside the order of sale made herein, June 3, 1867, and that the sale now advertised to be made thereunder may be stopped, &c., filed with notice as follows :

United States Circuit Court, district of Wisconsin.

LINDLEY M. HOFFMAN, senior,
vs.
WILLIAM JOHNSON *et al.* } In equity.

To Messrs. J. W. & A. L. Cary, esqs., attorneys for the National City Bank of Milwaukee :

Take notice that the petitions of Horace E. Connitt and H. H. Rich, in the above-entitled suit, copies of which have this day been served on you, will be called up for argument and action of the court thereon on Monday, September 16th, 1867, at the opening of court on that day, or so soon thereafter as counsel can be had.

Milwaukee, September 12th, 1867.

WALDO, ODY & VAN,
Sol'rs for Petitioners.

Circuit Court of the United States for the District of Wisconsin.

LINDLEY M. HOFFMAN, senior, compl't,
vs.
WILLIAM JOHNSON and MARGARET A., his wife, Alexander Harper and Sarah, his wife, Charles H. Larabee and Minerva, his wife, Horace H. Rich, Thomas Turton, John Sircomb, Charles Decker, James Seville and Alvin F. Ordway, def'ts. } In equity.

To the judges of the Circuit Court of the United States for the District of Wisconsin :

Your petitioner, Horace E. Connitt, respectfully represents, that since the date when the decree of foreclosure and sale was rendered

in the above-entitled suit, your petitioner has purchased and taken a conveyance of the entire property described in said decree, of and from parties who had derived legal title thereto from the defendants, Johnson, Harper, and Larabee, in said decree named, and he, your petitioner, is now the legal owner of the whole thereof, in fee, and is in possession thereof.

Your petitioner further shows, that he is informed and believes that the whole amount of said decree, except the four thousand dollars thereof, and interest, which was assigned to one Chancey Brown, as shown by the petition of the National City Bank of Milwaukee, and other papers on file in said suit, has long since been fully paid and satisfied, and had been fully paid and satisfied prior to the third day of June, 1867, to wit, in the year 1862, and neither the National City Bank of Milwaukee, nor the Juneau Bank, has, or has had, since the year 1862, any interest, legal or equitable, in the said decree, or in the money to be collected thereon.

Your petitioner further shows, upon information and belief, that Ann M. Brown, administratrix of the estate of Chauncey Brown, a citizen of the State of Wisconsin, is, and for several years last past hath been, the sole owner of the said decree, and of the entire claim secured thereby; that four thousand dollars of that decree was sold and assigned to said Brown about March 6th, 1862; that said Brown died on January 8th, 1864, or thereabouts, and his widow, said Ann M. Brown, is sole administratrix of his estate, and still holds and owns the part of said decree so sold to said Brown, which constitutes the first lien on said premises; that neither said Chauncey Brown,
41 nor his administratrix, nor any one in his or her behalf, hath ever directly or indirectly moved the court for an order of sale, or for any action under said decree, or favored any such motion; and said administratrix does not desire said decree to be enforced by an immediate sale of said property, but on the contrary, your petitioner was induced to purchase and did purchase said property with the assurance of said administratrix that she would refrain from enforcing said decree till your petitioner should have a reasonable time, and such time as he should desire, in which to pay off the remainder of said decree from the earnings of said mill, and said administratrix is still disposed to keep that assurance to this petitioner.

Your petitioner further saith, that he hath laid out and expended large sums of money upon said mortgaged property, in necessary repairs and improvements thereon, since he became the owner thereof, and he is interested to a very large amount to prevent a sale being made under said decree, and he believes he can, in a very short time, pay off and satisfy said decree to the satisfaction of the owner thereof.

Your petitioner further showeth, on information and belief, that none of the defendants, except Johnson, Harper, and Larabee, and their respective wives, ever authorised the entry of their appearance in said suit, and the acceptance of service of motion for said order of sale of June 3d, 1867, was entirely unauthorized by any of the defendants except those last above named,

and was procured without any knowledge on the part of the solicitor who accepted the same of said payment and satisfaction, and without any retainder by that solicitor by any of said defendants besides those last named.

Your petitioner further shows, on information and belief, that said complainant, Lindley M. Hoffman, senior, departed this life on or about the year A. D. 1861, and said suit hath never been revived or continued in the name of any representative of his estate, or of any assignee, or otherwise.

42 Your petitioner therefore prays that the order which was made by the court on June 3d, 1867, for a sale under said decree, may be set aside, and the sale now advertised to be made thereunder stopped, and that an order may be entered declaring so much of said decree as was formerly assigned to said Juneau Bank, and is now claimed by said National City Bank of Milwaukee, to wit, the whole of said decree, except the sum of four thousand dollars of the principal thereof, which was so assigned to said Chauncey Brown, to be paid and satisfied, and that such further or such other order be made as shall to this honorable court seem equitable; and your petitioner will ever pray, &c.

H. E. CONNIT.

DISTRICT OF WISCONSIN, *ss:*

Horace E. Connitt, being duly sworn, doth say on oath that he hath read the foregoing petition, by him subscribed, and knows the contents thereof; and that the same is true, of his own knoweldge, except as to the matters which are therein stated to be on information and belief; and as to those matters he believes it to be true.

J. M. MILLER,
U. S. Commissioner, District of Wisconsin.

United States Circuit Court, district of Wisconsin.

Petition of Horace H. Rich.

LINDLEY M. HOFFMAN, senior,
vs.
WILLIAN JOHNSON *et al.*
} In equity.

To the judges of the Circuit Court of the United States for said district:

Your petitioner, Horace H. Rich, respectfully represents that he is one of the defendants in the above entitled suit; that he never authorized Carpenter and Gridley, or M. H. Carpenter, esqr., to appear for him, or in any way to represent him in said suit; that he is the owner of a mortgage for one thousand dollars upon the mortgaged premises described in the decree in said suit, which is next in lien upon said premises to said decree; that he had no notice of the motion or petition of the National City Bank of Milwaukee for an order to sell

said premises under said decree, and had no opportunity to
43 resist that motion, though he would have resisted the same if he had had notice thereof; that the whole of said decree except four thousand dollars thereof, which was formerly assigned to one Chauncey Brown, now deceased, was paid and satisfied in the year 1862, and said four thousand dollars thereof is held and owned by the administratrix of the estate of said Brown; that the complainant in said suit died about (I believe) the year 1861, and said suit has never since his death been revived or continued in any manner.

Your petitioner therefore prays that the order of sale entered in said suit on June 3d, 1867, on motion of said bank, may be set aside and annulled, and the sale now being advertised to be made thereunder be stopped, and that he whole of said decree, except the four thousand dollars thereof which is owned by said administratrix, be declared satisfied of record, and that said bank be ordered to pay the costs of this application.

H. H. RICH.

DISTRICT OF WISCONSIN, *ss:*

Horace H. Rich, being duly sworn, doth say on oath that he hath read the foregoing petition by him subscribed, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated to be on information and belief, and as to those matters he believes it to be true.

H. H. RICH.

Subscribed and sworn before me this seventh day of September, 1867.

E. P. SMITH,
U. S. Commissioner for District of Wisconsin.

United States Circuit Court, district of Wisconsin.

Affidavit of Sat. Clark.

LINDLEY M. HOFFMAN, senior,
vs.
WILLIAM JOHNSON *et al.* } In equity.

DISTRICT OF WISCONSIN, *ss:*

Saterle Clark, being duly sworn, doth say on oath, that from August, 1859 to September, 1862, the firm of J. H. Conkey & Co. was
44 composed of James H. Conkey, Charles H. Larabee, and this affiant; that that firm during all that period were the owners of the mill and mortgaged premises described in the decree in the above entitled suit, subject to the two mortgages described in the bill in said suit, and had assumed and promised to pay those mortgages; that by the terms of the contracts by which said Conkey and this affiant became purchasers of interests in said mill, said mortgages were to be paid off as fast as possible out of the earnings of said mill;

that this affiant usually kept the books of said firm of J. H. Conkey & Co., and was very familiar with the financial affairs of that firm and with the circumstances of the assignment of a part of said decree in said suit to the extent of four thousand dollars thereof ($4,000) to one Chauncey Brown, and he has lately been informed of a pretended assignment of the remainder of said decree dated June 24th, 1862, by the administrator of the complainant to William G. Cutler and De Wit C. Conkey; and this affiant further states that the whole of said decree, except the said sum of four thousand dollars thereof which was so assigned to said Brown, was fully paid and satisfied by said firm of J. H. Conkey & Co. out of its own means arising from the earnings of said mill in or about the month of March, 1862. and prior to the date of said pretended assignment to William G. Cutler and De Witt C. Conkey; that such full payment was made by said firm to the attorney and solicitor of the complainant in said suit in satisfaction of the whole of said decree except said interest of said Brown; that the dates and amounts of such payments on said decree are shown by original entries in the books of said firm made at or about the times when they were respectively made.

And this affiant further saith that said James H. Conkey was not, during the existence of said firm as aforesaid, the holder of any incumbrance upon the said mortgage premises or any part thereof, or of any interest therein or claim thereon except as purchaser of an interest in common therein with said Larabee and this affiant as aforesaid,

and the said James H. Conkey did not furnish any part of the
45 money with which said payments in said decree were made out of his private means, nor did said Wm. G. Cutler and De Witt C. Conkey furnish any part thereof out of their means, but the whole thereof was furnished and paid by said firm of J. H. Conkey & Co. out of their firm means.

And this affiant further saith that said Chauncey Brown died early in the year of 1864, and this affiant is informed by the administratrix of his estate, and believes that no part of said four thousand dollars of said decree which was assigned to said Brown hath been paid, but the whole thereof is still owned by said administratrix, and that she does not desire and has not authorized a petition to have said mortgaged premises sold at present under said decree, but is willing to wait still longer for payment.

SAT. CLARK.

Subscribed and sworn to before me this 13th day of September, A. D. 1867.

J. M. MILLER,
U. S. Commissioner, Wisconsin.

United States Circuit Court, district of Wisconsin.

Affidavit of Ann M. Brown.

LINDLEY M. HOFFMAN, senior,
vs.
WILLIAM JOHNSON and MARGARET A., his wife, *et al.* } In equity.

DISTRICT OF WISCONSIN, *ss:*

Ann M. Brown being duly sworn, doth say on oath that she is the widow of Chauncey Brown, late of Dodge county, Wisconsin, who died on or about January 8th, 1864, and that she is the sole administratrix of the estate of said deceased; that Daniel G. Smith is the brother of this affiant, and is and ever since her appointment as such administratrix hath been her sole agent, and for her and in her name he hath been—is in the habit of transacting the entire business of said estate, and has transacted all such business which relates in any way to the decree in the above-entitled suit; that, so far as this affiant knows or believes, no payment hath ever been made to or for the benefit of said estate on the principal of said decree, nor hath
46 she as administratrix or otherwise parted with any interest in said decree or taken or authorized any step to enforce said decree by sale or otherwise, nor hath any person except said Smith ever been authorized to collect, sell, part with, or enforce said decree so far as it belonged to said estate, and that four thousand dollars of said decree besides some accrued interest thereon is still unpaid thereon, and is the sole property of said estate.

ANN M. BROWN.

Subscribed and sworn to before me this 7th day of September, A. D. 1867.

E. P. SMITH,
U. S. Commissioner for the District of Wisconsin.

United States Circuit Court, district of Wisconsin.

Affidavit of Daniel G. Smith.

LINDLEY M. HOFFMAN, senior,
vs.
WILLIAM JOHNSON and MARGARET A., his wife, and others. } In equity.

DISTRICT OF WISCONSIN, *ss:*

Daniel G. Smith being duly sworn, doth say on oath that he is the brother of Ann M. Brown, who is sole administratrix of the estate of Chauncey Brown, deceased, and is and ever since her appointment hath been the sole agent of said administratrix in transacting the business of said estate; that said Chauncey Brown died early in January, 1864; that on or about the 6th day of March, 1862, said Chaun-

cey Brown purchased the decree in the above-entitled suit to the extent of four thousand dollars thereof, and the same was duly assigned to him on that day; that from the last-mentioned date to the day of his death he was, and from thence hitherto his said administratrix had been and still is, the owner of the portion of said decree so assigned to Chauncey, and of the whole thereof, and that no part of that part hath been in any manner paid or satisfied; that he is informed and believes that the whole of said decree, except the portion so assigned to said Chauncey, was as early as the year 1862 paid and satisfied, and that from that time no person except said Chauncey
47 and his said administratrix has been or is beneficially interested in such decree, or in the moneys to be collected thereon. And finally he saith he hath never requested or authorized, and he is confident said administratrix hath never requested or authorized any motion or application to the court for an order for a sale of the mortgaged premises under said decree, and if such application hath been made, it has been without authority from any representative of said estate. This affiant further saith that said administratrix, as he is informed by her and verily believes, doth not desire any steps to be taken at present for the enforcement of said decree, by sale of the premises therein described, but on the contrary thereof, he says that as said agent of said administratrix, he hath induced Horace E. Connitt to purchase said premises, with the understanding that she would give him a reasonable time in which to pay off said decree, if he put the mill in good repair, and insured and kept it so, which he hath thus far done. This affiant makes this affidavit to be used in support of the petition of said Horace E. Connitt, the present owner of said mortgaged premises, to stop the sale under said decree, now being advertised, and to set aside the order for the same, made about June 3d, 1867.

D. G. SMITH.

Subscribed and sworn to before me, this 7th day of September, 1867.

E. P. SMITH,
U. S. Commissioner for District of Wisconsin.

United States Circuit Court, district of Wisconsin.

Affidavit of M. H. Carpenter.

LINDLEY M. HOFFMAN, senior,
vs.
WILLIAM JOHNSON and MARGARET A., his wife, and others.
} In equity.

DISTRICT OF WISCONSIN, *ss*:

Matt H. Carpenter being duly sworn, doth say on oath that he was a member of the firm of Carpenter & Gridley, who en-
48 tered the appearance of the defendants in the above-entitled

suit; that this affiant was instructed by the defendant Larabee to enter the appearance in that suit of all the defendants, which, so far as this affiant knows or believes, was all the authority which the said Carpenter & Gridley or this affiant had for entering said appearance; that he accepted service of notice of motion and petition for further order of sale in said suit in June, 1867, at request of Mr. Cary, supposing that it was a merely formal application not to be resisted, and without any information whatever that any payments had been made on said decree, and further saith not.

M. H. CARPENTER.

Subscribed and sworn to before me, this twelfth day of September, A. D. 1867.

J. M. MILLER.
U. S. Commissioner, Wisconsin.

Written and annexed motion and affidavits served by copies thereof this Sept. 13th, 1868, including affidavit by F. Bloodgood, disconnected.

JOHN W. & A. L. CARY, *Sol'rs.*

United States Circuit Court, district of Wisconsin.

Affidavit of Francis Bloodgood.

LINDLEY M. HOFFMAN, senior,
vs.
WILLIAM JOHNSON *et al.*
} In equity.

DISTRICT OF WISCONSIN, *ss:*

Francis Bloodgood being duly sworn, doth say on oath that he was the attorney and solicitor for the complainant in the above-entitled suit; that in December, 1861, the sum of $3,000 was paid to this affiant as such attorney to apply on the decree therein; that in March, 1862, an interest in said decree equal to four thousand dollars, ($4,000,) and interest thereon from March 6th, 1862, was sold and assigned by the administrator of the estate of the complainant to Chauncey Brown, who paid $4,000 therefor; that afterwards two other payments were made to this affiant as such attorney to apply on said decree, one of over $900, and the other of about $2,000, which were together sufficient to fully pay and satisfy the whole of said decree, principal, interest, and costs, except the part so as aforesaid assigned to said Brown, and the last-named two pay-
49 ments were, with the assent of said Brown, applied wholly to that part of said decree which still belonged to said administrator, and no part of it to that part which had been assigned to said Brown as aforesaid, and the whole thereof was paid over to said administrator by this affiant; that this affiant is familiar with the circumstances of the assignment of a part of said decree to said William G. Cutler and De Witt C. Conkey, dated about June 24th, 1862,

mentioned in the petition of the National City Bank of Milwaukee; that at or about the time when the last-named two payments were made, J. H. Conkey represented to this affiant that he was advancing of his own means the money to make the same, and that he was a subsequent incumbrancer of said mortgaged premises, and on that account had a right, in consideration of such payments, to be subrogated in equity to the rights of said administrator under said decree, and requested that an assignment of the remaining rights of the administrator therein should be made to him, and afterwards requested that it be made to said William G. Cutler and De Witt C. Conkey, stating that he had sold his interest to them, and thereupon, and and solely in consideration of such representation, which this affiant then supposed to be true, and of said request, said assignment to Wm. G. Cutler and De Witt C. Conkey was made; that this affiant was informed by said James H. Conkey and De Witt C. Conkey that said De Witt C. Conkey and Wm. G. Cutler constituted the firm of Cutler & Conkey, of Milwaukee, and that that firm were the agents or brokers of the parties who were running the mill mentioned in said decree, one of whom was the said James H. Conkey, and that said James H. Conkey was the brother of said De Witt C. Conkey.

FRANCIS BLOODGOOD.

Sworn to and subscribed before me, this 13th day of September, A. D. 1867.

J. M. MILLER,
U. S. Com'r, Wisconsin.

SEPTEMBER 27, 1867.

Affidavits in favor of National City Bank of Milwaukee, filed as follows:

Circuit Court of the United States, district of Wisconsin.

50 *Affidavit of Anthony Green.*

LINDLEY M. HOFFMAN
vs.
WILLIAM JOHNSON AND OTHERS.

DISTRICT OF WISCONSIN, *County of Milwaukee, ss:*

Anthony Green being duly sworn, deposes and says that he is the president of the National City Bank of Milwaukee; that he was formerly the president of the Juneau Bank, a banking corporation created and organized under and by virtue of the laws of the State of Wisconsin; that on or about the day of , 1865, the said Juneau Bank was under the laws of the United States and of the said State of Wisconsin changed and merged into the said National City Bank of Milwaukee, and that said last-named bank has succeeded to and is now the owner of all the rights, privileges, franchises, and property of the said Juneau Bank; that a portion of the transactions herein-

after named took place before deponent became president of said Juneau Bank, but that he was at that time a director thereof, and had a general knowledge of its affairs, and was interested in its management and affairs; that deponent is informed, and so believes the fact to be, that on the 12th day of March, 1861, the date of the decree in the above-entitled suit, Charles H. Larrabee, one of the defendants in said suit, was the sole owner of the mortgaged premises described in said decree, and had been such sole owner from the 5th day of May, 1859; that on or about the 13th day of February, 1863, the said Larrabee and wife conveyed to Alexander Harper, one of the defendants in said suit, an undivided one-fourth part of said mortgaged premises, and afterwards, and on or about the 20th day of February, 1864, the said Larrabee and wife conveyed to the said Harper an undivided one-twelfth of said mortgaged premises, whereby the said Harper became and was the owner of an undivided one-third of said premises; that on the said 20th day of February, 1864, the said Larrabee and wife conveyed to one James H. Conkey an undivided two-thirds of said mortgaged premises, and that said Harper and Conkey continued to be the owners of said premises until on or about the 5th day of December, 1865, at or about which time the said Conkey and wife conveyed an undivided one-third of said
51 mortgaged premises to one Albert T. Rice, and another undivided one-third of said premises to one Samuel C. Brown, and that by said last-named conveyances the title to said premises became vested in the said Harper, Rice, and Brown, each owning an undivided one-third, and that they continued to be the owners of said premises until they conveyed the same to Horace E. Connitt; who now appears in this suit by petition, and asks to have a portion of said decree satisfied of record. Deponent says that he is informed and so believes the fact to be, that on or about the 16th day of September, 1859, the said Charles H. Larrabee, then being the sole owner of said mortgaged premises, entered into an agreement with the said James H. Conkey and one Satterlee Clark, whereby he afterwards, upon certain terms and conditions, agreed to convey to the said Conkey and Clark each an undivided one-fourth part of said premises, and that thereupon the said Larrabee, Conkey, and Clark formed themselves into a co-partnership under the name of "J. H. Conkey & Co.," for the purpose running and carrying on the brick gris mill situated upon said mortgaged premises; that said firm did carry on said mill until about the first of September, 1862, when the said Larrabee purchased of the said Clark all of his interest in said mortgaged premises and the business of said firm, and that from thence up to about the 13th day of February, 1866, the said Larrabee and Conkey continued to carry on said mill under the said firm-name of "J. H. Conkey & Co.;" that on or about the 13th day of February, 1863, the said Larrabee and his wife having sold and conveyed to the said Alexander Harper a portion of the said mortgaged premises as hereinbefore stated, the said Harper became a member of said firm of "J. H. Conkey & Co.," and that said firm so composed continued to run and operate said mill until on or about the 20th day of

February, 1864, at which last-mentioned date the said Larrabee sold and conveyed his interest in said mortgaged premises to the said Conkey and Harper, as hereinbefore stated, who continued to run and operate said mill under the firm-name of "J. H. Conkey & Co.," until on or about the 5th day of December, 1865, when the said Conkey sold and conveyed his interest in the said mortgaged
52 premises to the said Rice and Brown, as hereinbefore stated, and that the said Harper, Rice and Brown continued to own said mortgaged premises and operate said mill until they sold and conveyed the same to the said Connitt, which sale took place on or about the 20th day of February, 1867.

That, as your deponent is informed and so believes the fact to be, that when the said Conkey sold and conveyed his interest in the said mortgaged premises to the said Rice and Brown, that the said Harper, Rice and Brown assumed to pay all of the incumbrances on said premises, and also of all the liabilities of the said firm of "J. H. Conkey & Co."

That, on the 22d day of February, 1864, the said James H. Conkey was the owner of an interest in the decree in this suit, amounting to the sum of $2,913, with interest thereon, from the 6th day of March, 1862, as appears from certain assignments of said portion of said decree, now on file in the records of this suit; that, on or about said 22d day of February, 1864, the said Conkey applied to the said Juneau Bank for a loan of $2,500, and offered as security therefor to assign to said bank his said interest in said decree; that said bank made said loan of $2,500 to said Conkey, and that, on the 23d day of February, 1864, the said Conkey assigned to said bank his interest in said decree, as collateral security for said loan; that, at the time of said assignment, the said Conkey was the owner of an undivided two-thirds of said mortgaged premises, and the said Harper was the owner of the remaining one-third, and that the said Conkey and Harper then composed the said firm of "J. H. Conkey & Co."; that, subsequent to the date of the said loan to J. H. Conkey, the said bank loaned and advanced to the said firm of "J. H. Conkey & Co.," from time to time, various sums of money to enable them to carry on the business of operating said mill, and that, as security for said advances, the said Conkey and Harper executed and delivered to said bank their bond secured by a mortgage [a mortgage] upon said premises for the sum of $20,000, which said bond and mortgage bear date December 20th, 1864; and that, at the time the said Conkey sold his interest in the said mortgaged premises to said Rice and Brown, to wit, on or about the 5th day of December, 1865,
53 the indebtness of the said firm of "J. H. Conkey & Co." to said bank, including the aforesaid loan of $2,500 to said J. H. Conkey, amounted to about the sum of $20,000, which said last-mentioned sum the said Harper, Rice, and Brown assumed to pay, and, on or about the 26th day of December, 1865, executed and delivered to the said The National City Bank of Milwaukee their bond therefor, and secured the same by a mortgage upon the premises described in the decree in this suit; that the whole amount secured to be paid by

the said bond and mortgage is now due and payable, and is the sum of about $21,750; that the other incumbrances upon said mortgaged premises are as follows, to wit, an interest of $4,000 in the decree in this suit, which said interest was assigned by the administrator of complainant to one Chauncey Brown, on the 13th of March, 1862, and which said interest was purchased by the said The National City Bank of Milwaukee of Ann M. Brown, the administratrix of the said Chauncey Brown's estate, on the 14th day of September instant, and is now owned by said bank; a mortgage executed by Charles H. Larrabee and wife, William Johnson and wife, and Alexander Harper and wife, to Horace H. Rich, bearing date the 20th day of January, 1859, to secure a note of the same date for $1,000 payable two years after date, with interest at twelve per cent. per annum, which said note and mortgage were, on the 16th day of September instant, assigned by the said Rich to the said bank, and are now owned by said bank, and that there is now due upon the same about the sum of $1,380; a mortgage executed by Alexander Harper and wife to Chauncey Brown, on the second day of October, 1863, to secure a note of the same date for $1,000, payable two years after date, with interest, which said note and mortgage were, on the 14th day of September instant, assigned by the said Ann M. Brown, administratrix of the estate of Chauncey Brown, deceased, to the said bank, and are now owned by the said bank, and that there is now due upon the same the sum of $1,000; that, as deponent is informed and so believes the fact to be, there are no other incumbrances upon said mortgaged premises, except those hereinbefore mentioned, all
54 of which are now due and payable, are owned by said bank, and amount in the aggregate to the sum of $28,130 or more; that none of the securities so, as aforesaid, given to said bank by the said Conkey, the said Conkey and Harper, or the said Harper, Rice and Brown, were ever satisfied or discharged, and that it was the understanding between said parties that they should not be, but that they should all be held by said bank as valid securities upon said premises; that the notes representing the intebtedness for which the aforesaid securities were given are still held by said bank, and that no part of said indebtedness of the said Conkey, the said Conkey & Co., or the said Harper, Rice, and Brown to said bank, has ever been paid, except that the said Harper, Rice, and Brown paid one instalment of interest of $700 upon the mortgage so, as aforesaid, given by them. Deponent further says that he is acquainted with said mortgaged premises, and that, in his judgment, the cash value of the same is not to exceed the sum of $20,000; that the most profitable season for running said mill is during the fall months, and that deponent believes that the said Connitt is attempting to delay said bank in the enforcement of its securities against said premises; that he may keep possession of said premises, and make all that he can out of the same, to the great detriment of said bank; that the said Connitt has not paid any part of the securities so, as aforesaid, given to

said bank by the said Conkey, the said Conkey & Co., or the said Harper, Rice, and Brown, and utterly refuses to pay the same.

ANTHONY GREEN, *President.*

Subscribed and sworn before me this twenty-sixth day of September, A. D. 1867.

SILAS CHAPMAN,
Notary Public, Mill. Co.

Circuit Court of the United States, district of Wisconsin.

Affidavit of Alexander Harper.

LINDLEY M. HOFFMAN
vs.
WILLIAM JOHNSON *et al.*

DISTRICT OF WISCONSON, *County of Milwaukee, ss:*

55 Alexander Harper, being duly sworn, deposes and says: That, on the 23d day of February, 1864, and at the time one James H. Conkey assigned to the Juneau Bank a certain interest in the decree in this suit, that the mortgaged premises described in said decree were owned, one-third by this deponent and two-thirds by the said James H. Conkey, and that this deponent, together with the said Conkey, continued to own said premises and operate the mill thereon until on or about the 5th day of December, 1865, at which date the said Conkey sold one-third of said premises to one Albert S. Rice, and the other third to one Samuel C. Brown, and that the said Rice, Brown, and deponent continued to own said premises and operate the mill thereon, under the firm name of "Harper & Co.," until they sold said premises to Horace E. Connitt, on or about the 20th day of February, 1867; that, on or about the 26th day of December, 1865, the said Rice, Brown, and deponent executed to the National City Bank of Milwaukee their bond for the sum of $20,000, and secured the same by a mortgage on said premises; that said bond and mortgage were executed as collateral security for loans and advances, which had been made by the Juneau Bank and the National City Bank, its successor, to the said Conkey and this deponent, and also included a loan of $2,500, which had been made by said Juneau Bank to said James H. Conkey, and to secure which the said Conkey had assigned to said bank a certain interest in the decree in this suit.

Deponent further says that the said Rice, Brown, and this deponent sold said premises to said Horace E. Connitt, on or about the 20th day of February, 1867, and that, as a part of the consideration of said sale, the said Connitt agreed to pay or take care of all the incumbrances upon said premises, and to relieve and save harmless the said Harper & Co. from the payment of the same.

ALEX. HARPER.

Sworn to before me this 26th day of September, 1867.

SILAS CHAPMAN,
Notary Public, Mil. Co.

Circuit Court of the United States.

56 *Affidavit of John Johnston.*

LINDLEY M. HOFFMAN
vs.
WILLIAM JOHNSON and MARGARET, his wife, Alexander Harper and Sarah, his wife, Charles H. Larrabee and Minerva, his wife, Hiram H. Rich, Thomas Turton, John Sercomb, Charles Decker, James Seville and Alvin F. Ordway.

DISTRICT OF WISCONSIN, *ss*:

John Johnston, being duly sworn, deposes and says: That he is the assistant cashier of the Wisconsin Marine & Fire Insurance Bank.

That from an examination of the books of said bank, he finds that there was in that bank, for collection in the spring and summer of 1862, a note for two thousand dollars, made by Jas. H. and D. C. Conkey, in favor of E. Sanderson, E. D. Chapin and W. G. Cutler, dated March 6th, 1862, and due June 4-7 of the same year; that it was paid before maturity, and collected on account of George C. Stevens, and past to his credit. And further says not.

JOHN JOHNSTON.

Sworn and subscribed before me this 18th day of September, A. D. 1867, at Milwaukee, Wisconsin.

W. L. HINSDALE,
Notary Public, Milw. Co., Wis.

And afterwards, to wit, at a term of said Circuit Court of the United States for the district of Wisconsin, begun and held according to law, on the second Monday of September, A. D. 1867. Present the Honorable Andrew G. Miller, district judge, presiding.

On the eighteenth day of said term, to wit, on the 28th day of September, A. D. 1867, the following proceedings were had, to wit:

Order of court denying petitions.

CHAUNCEY BROWN and THE NATIONAL CITY Bank of Milwaukee, assignees of William O. Hoffman, adm'r of the estate of Lindley M. Hoffman, dec'd,
vs.
WILLIAM JOHNSON, MARGARET A. JOHNSON *et al.*
} In equity.

57 This day came the parties, by their counsel, and the petitions of Horace E. Connit and H. H. Rich, as herein filed, for an order to rescind the order of this court made on the third day of June, 1867,

and to stay the sale of the mortgaged premises, being argued by Mr. Waldo for said petitioner, and by Mr. Cary for the National City Bank of Milwaukee, it is thereupon ordered by the court that the prayer of said petitions be denied.

And afterwards, to wit, on the twentieth day of said term, to wit, on the seventh day of October, A. D. 1867, the following proceedings were had, to wit:

CHAUNCEY BROWN and THE NATIONAL CITY Bank of Milwaukee, assignees of William O. Hoffman, adm'r of the estate of Lindley M. Hoffman, dec'd,
vs.
WILLIAM JOHNSON *et als.*
} In equity.

This day came the marshal, and made report of sale, as herein filed as follows, to wit:

58 In the Circuit Court of the United States for the district of Wisconsin.

CHAUNCEY BROWN and THE NATIONAL City Bank of Milwaukee, assignees of William O. Hoffman, administrator of the estate of Lindley M. Hoffman, sen'r, deceased,
vs.
WILLIAM JOHNSON, MARGARET JOHNSON, Alexander Harper, Sarah Harper, Charles H. Larabee, Minerva Larabee, Horace H. Rich, Thomas Turton, John Sercomb, Charles Decker, James Seville, and Alvin F. Ordway.
} In chancery.

I, Cassius Fairchild, marshal for the district of Wisconsin, hereby report that in pursuance and by virtue of a decree made by the District Court of the United States for the district of Wisconsin, on the twelfth day of March, A. D. 1861, and also in virtue of a subsequent decretal order made by the Circuit Court of the United States for the district of Wisconsin on the third day of June, A. D. 1867, as directed in said decree and decretal order, I gave notice of the time and place of sale by publication once in every two weeks for three months in the Beaver Dam Argus, a newspaper published in the county of Dodge, (a printed copy of said notice and the affidavit of publication are hereto annexed and referred to as a part of this report,) and I did at the time and place mentioned in said printed notice, to wit, on the twenty-first day of September, 1867, at two o'clock p. m., at the post office in the city of Milwaukee, then and there open said sale and offered said premises for sale by public outcry, and thereupon by direction of the said Circuit Court I publicly

announced that said sale would be held open and continued to Saturday, the twenty-eighth day of September, A. D. 1867, at the same hour and place as above mentioned, then to be proceeded with, at which time I then and there offered for sale and sold at public auction the premises described in said decree as follows, to wit:

The following real estate being and lying in the county of Dodge and State of Wisconsin, and known and described as the east sixty feet of lot number one (1) in block number three (3) in the south addition to the village of Horicon, with the water power pertaining thereto, and the brick grist mill erected thereon, which was
59 bid off by Anthony Green for the sum of seventeen thousand dollars, ($17,000,) he being the highest and best bidder, and that being the highest and best bid made for the premises described.

And I further report that after having deducted the costs of sale, twenty-nine and 15-100 dollars, I have paid the balance of the said proceeds of sale, amounting to the sum of sixteen thousand nine hundred and seventy and 85-100 dollars, to the clerk of this court.

CASSIUS FAIRCHILD, *U. S. Marshal.*
By WM. S. JACKSON, *Deputy.*

Costs of sale.

Printer	8 35	
Drawing adv't	1 00	
Opening sale	1 00	
Making sale	10 00	
Report	3 00	
		23 35
Clerk's fees		5 80

And said copy of notice and affidavit of publication referred to in said report are as follows:

United States Marshal's sale.

CHAUNCEY BROWN and THE NATIONAL City Bank of Milwaukee, assignees of William O. Hoffman, administrator of the estate of Lindley M. Hoffman, senior, deceased,
vs.
WILLIAM JOHNSON, MARGARET A. JOHNSON, Alexander Harper, Sarah Harper, Charles H. Larabee, Minerva Larabee, Horace H. Rich, Thomas Turton, John Sercomb, Charles Decker, James Seville, and Alvin F. Ordway.

In pursuance and by virtue of a decree made by the District Court of the United States, in and for the district of Wisconsin, on
60 the twelfth day of March, A. D. 1861, and also in virtue of a

subsequent decretal order made by the Circuit Court of the United States for the district of Wisconsin on the third day of June, A. D. 1867, in the above-entitled cause, I shall sell at public auction, at the post office in the city of Milwaukee, in this district, on Saturday, the twenty-first day of September, A. D. 1867, at 2 o'clock p. m., the following described property, or so much thereof as may be necessary to satisfy said decree, to wit:

The following real estate being and lying in the county of Dodge and State of Wisconsin, and known and described as the east sixty (60) feet of lot number one (1) in block number three in the south addition to the village of Horicon, with the water-power pertaining thereto, and the brick grist mill erected thereon.

CASSIUS FAIRCHILD,
United States Marshal.
JOHN W. & A. L. CARY,
Complainants' Solicitor.

United States Marshal's Office, Milwaukee, June 6th, 1867.

STATE OF WISCONSIN, *County of Dodge:*

D. C. Gowdey, of said county. being duly sworn, doth depose and say that he is one of the publishers and printers of the Beaver Dam Argus, a weekly newspaper of general circulation, and published in said county of Dodge, and that the printed notice, a copy of which was taken from said newspaper and is hereunto annexed, was published therein once in every two weeks for three successive months previous to the day of sale, commencing on the fifteenth day of June, A. D. 1867.

D. C. GOWDEY.

Sworn and subscribed to before me this 1st day of October, 1867.
B. F. SHERMAN,
Notary Public, Dodge Co., Wis.

Filed October 7, 1867.

And same day, (October 7, 1867,) came the defendants, William Johnson and Margaret A., his wife, Alexander Harper and Sarah, his wife, and Charles H. Larrabee and Minerva, his wife, by their solicitor, Mr. Carpenter, and filed exceptions to said report of sale
61 as follows, to wit:

In the Circuit Court of the United States for the district of Wisconsin.

Exceptions of William Johnson et als. to report of sale.

LINDLEY M. HOFFMAN, senior,
vs.
WILLIAM JOHNSON and MARGARET A., his wife, Alexander Harper and Sarah, his wife, Charles H. Larrabee and Minerva, his wife, Horace H. Rich, Thomas Turton, John Sercomb, Charles Decker, James Seville, and Alvin F. Ordway.

Exceptions taken by the defendants, William Johnson and Margaret A. his wife, Alexander Harper and Sarah his wife, and Charles H. Larrabee and Minerva his wife, to the report of Cassius Fairchild, esq'r, marshal of the United States for said district of Wisconsin, of the sale of the mortgage premises in this cause, reported by him to have been made on the 28th day of September, 1867, by his report filed in this court on the 28th day of September, A. D. 1867.

1st exception. For that it appears that Lindley M. Hoffman, the sole complainant in said suit, died in the year 1861, and long before the date of the order and decree of sale to which was entered on June 3rd, 1867, and said suit has never been revived by or in favor of any representative of said Lindley M. Hoffman, deceased, or of any person whomsoever.

2nd exception. For that it appears that Chauncey Brown, in whose favor the said decree and order of June 3rd, 1867, in said suit, purports to have been rendered and made, died long prior to the date of the last-named order and decree, to wit, on the 8th day of January, A. D. 1864; that he was the sole owner of the whole decree in this suit and of all monies due or to become due thereon at the date of his death, and that neither said Chauncey Brown nor any representative of his, nor any one succeeding to his rights and interest in said decree, hath ever been made party to said suit by revivor or otherwise.

3rd exception. For that it appears that the said order and
62 decree of sale of June 3rd, 1867, under which said sale was made, was made solely on the petition and motion of the National City Bank of Milwaukee, and was made in favor of that bank and of said Chauncey Brown; that said Brown was then dead, and said bank had then no interest whatever in said decree or in the debt sought to be collected in this suit; and that all of the decree except the four thousand dollars thereof which was owned by said Brown at the time of his death, and by his administratrix on June 3rd, 1867, was paid and satisfied long prior to June 3rd, 1867.

4th exception. For that it appears by said report that said marshal did not give due and legal notice of such sale; in this, that said mar-

shal entitled the notice of sale not in this suit nor as this suit has, since a date long prior to June 3rd, 1867, been entitled, but entitled such notice as in the suit of Chauncey Brown and the National City Bank of Milwaukee, assignees, &c., *vs.* William Johnson and the other defendants above named.

5th exception. For that said order and decree of June 3rd, 1867, as appears of record in this suit, was made without the presence of and without notice to either Lindley M. Hoffman, the complainant, or any representative of his estate, or to the solicitor of record of the complainant.

6th exception. For that it appears that then there was no proof before the court at any time that the National City Bank of Milwaukee had any interest in said decree or had any title thereto or any right to appear and move in said suit.

7th exception. For that it appears that the administratrix of the estate of Chauncey Brown, deceased, was from a date prior to January 1st, 1867, up to the 14th day of September, 1867, the owner of four thousand dollars of said original decree, and of all thereof that had not before that been paid and satisfied; that such administratrix was never made a party to this suit by revivor or otherwise, did not ask for the entry of said order and decree of June 3rd, 1867, or desire said sale to be made, but, on the contrary, had agreed with one Horace E. Connitt that if he would purchase said premises subject to said decree, she would give him so much time as he should
63 desire in which to pay said decree, and had thereby induced said Connitt to purchase said premises; and that, on said September 14th, 1867, and before the day of said sale, the decree so owned by said administratrix was fully paid and satisfied, and should have been discharged and said sale should have been stopped.

8th exception. For that it appears that even if the National City Bank of Milwaukee was the owner of that part of the original decree which it claims as assignee of James H. Conkey, still it appears that the four thousand dollars thereof which belonged to the administratrix of said Brown was fully paid and satisfied prior to the sale, and the sale should not have been made for more than the part so owned by said bank as such assignee.

9th exception. For that it appears that the said marshal did not make due and legal publication of the notice of said sale, in this, that the said original decree directed such notice to be printed once in every two weeks for three months next prior to the day of sale, whereas the proof is simply and only that such notice was printed once in every other week for three months commencing on the 15th day of June, 1867, the day for the sale being September 21st, 1867, and it is not made to appear that such notice was continued in the newspapers once in two weeks down to said sale, or that it was printed at all within the last two weeks prior to said September 21, 1867, which was the day fixed in the notice for the sale.

10th exception. For that it appears that said marshal did not give due and legal notice of said sale, in this, that he only published notice that such sale would be made on the 21st day of September, A. D.

1867, whereas he did not make such sale in fact on the last-named day, nor until the 20th day of September, 1867, and made no adjournment of such sale from said September 21st to said September 28th, and published no notice of such adjournment or postponement or of his intention to make such sale on the last-named day, when it actually was made.

MATT. H. CARPENTER.
CARPENTER & GRIDLEY,
Sol. for s'd Def't.

64 *Petition of Connit to set aside said sale.*

And same day, (October 7, 1867,) came Horace E. Connitt, by his solicitors, Messrs. Waldo, Ody & Van, and filed his petition to set said sale aside, and exceptions to said report, as follows, to wit:

In the Circuit Court of the United States for the district of Wisconsin.

LINDLEY M. HOFFMAN, senior, complainant,
vs.
WILLIAM JOHNSON and MARGARET A., his wife,
def'ts.

To the honorable the judges of said court:

The petition of Horace E. Connitt respectfully shows that your petitioner is the owner, in fee simple, of, the real estate described in the decree of foreclosure and sale in the above-entitled suit, (which real estate was, on the 28th day of September, 1867, sold by the United States marshal for the State of Wisconsin, as appears by his report of sale in said suit,) and hath the same interest in said real estate (subject to said sale) which he had on the 27th day of September, when his former petition was filed in this suit; and he hereby refers to and adopts said petition as part of this petition, and prays that it may be read and taken in connection herewith, and as a part hereof,; and upon the facts by said petition and the accompanying affidavits, and by said marshal's report of sale, shown to this court, your petitioner respectfully prays the honorable court to refuse confirmation of said report and of the sale therein reported; and to set the same aside, for the following reasons, to wit:

First. For that it appears from the records in this action that Lindley M. Hoffman, senior, the sole complainant in said suit, died in the year 1861; and long before the date of the order and decree of sale, which was entered on June 3d, 1867; and said suit has never been revived by, or in favor of, any representatives of said Lindley M. Hoffman, senior, deceased, or of any person whomsoever.

Second. For that it appears that Chauncey Brown, in whose favor the said decree and order of June 3d, 1867, in said suit, purports to have been rendered and made, died, long prior to the date of
65 the last-named order, to wit, on or about the 8th day of January, A. D. 1864; that he was the sole owner of the whole

decree in this suit, and of all monies due or to become due thereon, at the date of his death, and that neither said Chauncey Brown nor any representative of his, nor any one succeeding to his rights and interest in said decree, hath ever been made party to said suit, by revivor or otherwise.

Third. For that it appears that the said order and decree of sale of June 3d, 1867, under which said sale was made, was made solely on the petition and motion of the National City Bank of Milwaukee, and was made in favor of that bank and of said Chauncey Brown; that said Brown was then dead, and said bank had then no interest whatever in said decree, or in the debt sought to be collected in this suit, and that all of the decree, except the four thousand dollars thereof which was owned by said Brown at the time of his death, and by his administratrix, on June 3d, 1867, was paid and satisfied long prior to June 3d, 1867.

Fourth. For that it appears by said report that said marshal did not give due and legal notice of such sale; in this, that said marshal entitled the notice of sale, not in this suit, nor as this suit has since a date long prior to June 3d, 1867, been entitled, but entitled such notice as in the suit of Chauncey Brown and The National City Bank of Milwaukee, assignees, &c., *vs.* William Johnson and other defendants.

Fifth. For that said order and decree of June 3d, 1867, as appears of record in this suit, was made without the presence of, and without notice to, either Lindley M. Hoffman, the complainant, or any representative of his estate.

Sixth. For that it appears that there was no proof before the court, at any time, that the National City Bank of Milwaukee had any interest in said decree, or had any title thereto, or any right to appear and move in said suit.

Seventh. For that it appears that the administratrix of the estate of Chauncey Brown, deceased, was, from a date prior to January 1st, 1867, up to the 14th of September, 1867, the owner of four thousand dollars of said original decree, and of all thereof that was not
66 before that time paid and satisfied; that such administratrix was never made a party to this suit, by revivor or otherwise—did not ask for the entry of said order and decree of June 3d, 1867, or desire said sale to be made; but, on the contrary, had agreed with your petitioner, Horace E. Connit, that if he would purchase said premises, subject to said decree, she would give him so much time as he should desire in which to pay said decree; and had thereby induced him to purchase said premises; and that on said September 14th, and before the day of said sale, the said decree, so owned by said administratrix, was fully paid and satisfied, and should have been discharged, and said sale should have been stopped.

Eighth. For that it appears that even if the National City Bank of Milwaukee was the owner of that part of the original decree which it claims, as assignee of James H. Conkey, still it appears that the four thousand dollars thereof which belonged to the administratrix of the said Brown was fully paid and satisfied prior to the sale, and the

sale should not have been made for more than the part so owned by said bank, as such assignee.

Ninth. For that it appears the said marshal did not make due and legal publication of the notice of said sale; in this, that the said original decree directed such notice to be printed once in every two weeks for three months next prior to the day of sale; whereas, the proof is simply and only that such notice was printed once in every other week for three months, commencing on the 15th day of June, 1867, the day for the sale being September 21, 1867; and it is not made to appear that such notice was continued in the newspaper once in two weeks down to the time of said sale, or that it was printed at all within the last two weeks prior to said September 21st, 1867, which was the day fixed in the notice for the sale.

Tenth. For that it appears that said marshal did not give due and legal notice of said sale; in this, that he only published notice that such sale would be made on the 21st day of September, A. D. 1867, whereas he did not make such sale, in fact, on the last-named day, nor until the 28th day of September, 1867, and made no
67 adjournment of such sale from said September 21st to said September 28th, and published no notice of such adjournment or postponement, or of his intention to make such sale on the last-named day, when it actually wasmade.

And your petitioner hereby objects and excepts to said sale and report, and to the confirmation thereof, for each and every the reasons above given.

WALDO, ODY & VAN,
Solicitors for Horace E. Connitt.

DISTRICT OF WISCONSIN, *ss:*

Horace E. Connitt, being duly sworn, doth say, on oath, that he hath read the foregoing petition, and knows the contents thereof, and that the same is true of his own knowledge, except as to those matters which are therein stated to be on information and belief, and as to those matters he believes it to be true.

H. E. CONNIT.

Sworn and subscribed before me, this 1st Oct'r, 1867.

FRANCIS BLOODGOOD,
U. S. Commissioner, Dist. Wis.

Exceptions overruled, &c.

And the said exceptions having been argued by counsel, it is ordered by the court that the said exceptions be, and they are hereby, are overruled, and that the said petition be denied.

Order of confirmation.

And it is further ordered by the court, thet the said sale, so made by the marshal, and the report thereof, be, and hereby are, confirmed, and that the marshal make a deed to the purchaser.

And it is further ordered by the court, that the proceeds of said

sale, paid into court by the marshal, be deposited in the National City Bank of Milwaukee until the further order of this court.

Petition for appeal.

And came Charles H. H. Larbee, by Matt. H. Carpenter, and Horace Connitt, by Messrs. Waldo, Ody & Van, their respective counsel, and presented their petition for appeal, as herein filed, from the orders of June 3d, 1767, and of September 28, 1867; and said petition for appeal is as follows:

Circuit Court of the United States in and for the district of Wisconsin.

LINDLEY M. HOFFMAN, senior,
against
WILLIAM JOHNSON AND OTHERS.

68 To the honorable the judges of the Circuit Court of the United States for the district of Wisconsin:

Your petitioner, Charles H. Larabee, by Matt. H. Carpenter, his solicitor, and Horace E. Connitt, by Waldo, Ody and Van, his solicitors, respectively represent, that said Connitt is, and since February, 1867, has been the owner in fee of the mortgaged premises described in the pleadings and decree in the above-entitled suit, by purchase from the mortgagors during the pendency of said suit.

That each and both of your petitioners are injured and aggrieved by the decretal order entitled Chauncey Brown and the National City Bank of Milwaukee, assignees of W. O. Hoffman administrator of the eatate of Lindley M. Hoffman, senior, dec'd, against William Johnson, Margaret A. Johnson, Alexander Harper, Sarah Harper, Charles H. Larabee, Minerva Larabee, Horace H. Rich, Thomas Turton, John Sercomb, Charles Decker, James Seville, and Alvin F. Ordway, dated and entered on the third day of June 1867, and ordered to be recorded, and recorded at the foot of the decree in the above-entitled suit, adjudging and decreeing the amount then due and directing a sale of the mortgaged premises in said suit.

And are further injured and aggrieved by the order of this court entered in said suit on the 28th day of September, A. D. 1867, denying the prayer of the petitiou of said Connit, and of the petition of Horace H. Rich, theretofore filed in said suit, to set aside said order June 3d, 1867, and for other relief, and by the whole of each of said orders.

Wherefore your petitioners and each of them pray an appeal to the Supreme Court of the United States from each of said orders, and from the whole thereof.

Your petitioners herewith offer to your honors a bond according to law to be by you approved, and pray the allowance of an appeal and citation according to law.

Dated Milwaukee, Oct. 7th, 1867.

MAT. H. CARPENTER,
Sol. for Larabee.
WALDO, ODY & VAN,
Solicitors for Horace E. Connit.

69 *Appeal allowed.*

Whereupon it is ordered by the court that the said appeal be and hereby is allowed, and that said appellants or either of them give bond with surety to be approved by the court or a judge thereof in the penalty of two hundred and fifty dollars conditioned for the payment of the costs of said appeal, and that a citation do issue. Citation issued.

Petition for appeal from order of confirmation.

And (October 7, 1867) came Charles H. Larabee, by Matt H. Carpenter, and Horace E. Connit by Messrs. Waldo, Ody & Van, their respective counsel, and presented their petition as herein filed, praying an appeal from the order of this court made on the 7th day of October, 1867, confirming the report of sale and directing the marshal to make a deed to the purchaser; and said petition for appeal is as follows, to wit:

United States Circuit Court, district of Wisconsin.

LINDLEY M. HOFFMAN, senior,
vs.
WILLIAM JOHNSON AND OTHERS.

To the judges of the Circuit Court of the United States for the district of Wisconsin:

Your petitioners, Charles H. Larabee, by Matt. H. Carpenter, his solicitor, and Horace E. Connit, by Waldo, Ody & Van, his solicitors, respectfully represents that said Connit is, and since February 1867, he hath been the owner in fee of the mortgaged premises described in this suit by purchase from the mortgagors during the pendency of this suit; that these petitioners are each and both injured and aggrieved by the order of this court made the seventh day of October, 1867, confirming the report of the marshal of this district of the sale of the mortgaged premises, and directing the execution and delivery of a deed. Wherefore your petitioners pray an appeal to the Supreme Court of the United States, from said order and the whole thereof.

Your petitioners herewith offer to your honors a bond according to law to be by you approved for a supersedeas, and to stay all proceedings under the order so appealed from, and pray the allowance
70 of appeal and citation according to law.

Dated Milwaukee, October 7th, 1867.

MATT. H. CARPENTER, *Sol. for Larabee.*
WALDO, ODY & VAN,
Solicitors for Horace E. Connit.

Appeal allowed.

Whereupon it is ordered by the court that said appeal be and hereby is allowed, and that said appellants or either of them give bond

for a supersedeas of surrender of possession of the premises to the purchaser in the penalty of twenty thousand dollars with sureties, to be approved by the court or a judge thereof, conditioned to prosecute said appeal to effect and answer all damages and costs if he fail to make good his said appeal.

And same day, (October 7, 1867,) petition of the National City Bank of Milwaukee, for distribution of moneys in court, filed as follows to wit:

Circuit Court of the United States for the District of Wisconsin.

Petition for distribution of money in court.

LINDLEY M. HOFFMAN, senior, *vs.* WILLIAM JOHNSON, MARGARET A. JOHNSON, Alexander Harper, Sarah Harper, Charles H. Larrabee, Minerva Larrabee, Horace H. Rich, Thomas Turton, John Sercomb, Charles Decker, James Seville, and Allin F. Ordway.	In equity.

To the judges of the Circuit Court of the United States for the district of Wisconsin:

Your petitioner, "The National City Bank of Milwaukee," respectfully represents: that, as is stated and set forth in its petition filed in this cause on the 3d day of June, 1867, the sum of two thousand nine hundred and thirteen dollars of the decree in this cause, with interest thereon from the 6th day of March, 1862, is owned by your petitioner, by virtue of the assignments now on file in this cause and referred to in said former petition of your petitioner.

That your petitioner is also the owner of the interest in said decree which was assigned to one Chauncey Brown, as stated in said former petition, and that there is now due your petitioner on said in-
71 terest so as aforesaid assigned to said Brown the sum of four thousand dollars, with interest from September 6th, 1867, making the total amount now due your petitioner on said decree the sum of eight thousand and sixty-eight dollars and seven cents.

That your petitioner is also the owner of a mortgage upon the premises described in said decree given by Charles H. Larrabee, William Johnson, and Alexander Harper and their respective wives, to Horace H. Rich, bearing date January 20th, 1859, for the sum of one thousand dollars, with interest at twelve per cent., upon which there is now due your petitioner the sum of one thousand three hundred and eighty-three dollars and sixty-six cents, and that said mortgage is a lien upon said premises next subsequent to said decree.

That your petitioner is also the owner of a mortgage given by Alexander Harper and wife to Chauncey Brown on said premises, bearing date October 2d, 1863, for the sum of one thousand dollars,

with interest, upon which there is now due your petitioner the sum of one thousand dollars, which is a lien next in order upon an undivided one-third of said premises.

That your petitioner is the owner of a mortgage given by Alexander Harper, Albert T. Rice, and Samuel C. Brown, and their respective to your petitioner for the sum of twenty thousand dollars, on the whole of said premises, bearing date December 26th, 1865, upon which there is now due to your petitioner the sum of seventeen thousand seven hundred and twenty-four dollars and sixty-eight cents over and above the sum of four thousand and forty-eight dollars and sixty-five cents, the interest of your petitioner in said decree so as aforesaid assigned by James H. Conkey to said Juneau Bank, which last amount is also included in said mortgage, and that said last-mentioned mortgage is the lien next in order upon said premises.

That the whole amount so due your petitioner on said several liens is the sum of twenty-eight thousand one hundred and seventy-six dollars and forty-one cents.

And your petitioner therefore prays, that an order may be
72 made herein directing the payment to your petitioner of the whole amount of the proceeds of said sale less the expenses of said sale, and your petitioner will ever pray, &c.

NATIONAL CITY BANK OF MILWAUKEE.
By ANTHONY GREEN, *President.*

DISTRICT OF WISCONSIN, *ss:*

Be it remembered, that on the first day of October, A. D. 1867, personally came before me Anthony Green, and made oath that he is one of the officers of the National City Bank of Milwaukee, the petitioner named in the foregoing petition, to wit, its president; that he has read said petition, and knows the contents thereof, and that the same is true of his own knowledge.

EDWARD KURTZ, *Clerk.*

Bond for appeal.

OCTOBER 16, 1867.

Bond for costs on appeal from orders of June 3, 1867, and September 28, 1867, filed as follows :

Know all men by these presents, that we, Horace E. Connit, as principal, and L. B. Raymond and J. F. Randolph as sureties, are held and firmly bound unto the National City Bank of Milwaukee in the full sum of two hundred and fifty dollars, lawful money of the United States of America, to which payment, well and truly to be made, we bind ourselves, and our and each of our heirs, executors, and administrators forever firmly by these presents.

In witness whereof, we have hereunto set our respective hands and and seals the eighth day of October, A. D. 1867.

Whereas Horace E. Connit and Charles H. Larrabee have taken an appeal to the United States Supreme Court from the decretal

order of the United States Circuit Court for the district of Wisconsin, made the 3d day of June, A. D. 1867, on the petition of the National City Bank of Milwaukee for the sale of mortgaged premises and other relief in the suit commenced in the District Court for said district, by Lindley M. Hoffman, senior, since deceased, against William Johnson and others, in equity, and from that other order entered in said suit on the 25th day of September, A. D., 1867,
73 denying the petition of Horace E. Connit and Horace H. Rich to have said decretal order of June 3rd, 1867, set aside, and for other relief:

Now, therefore, the condition of the above obligation is such, that if the said Horace E. Connit and Charles H. Larrabee shall prosecute said appeal to effect, and answer all damages and costs if they shall fail to make good their appeal, then the said obligation to be null and void; otherwise to remain in full force and virtue.

[SEAL.] H. E. CONNIT.
[SEAL.] L. B. RAYMOND.
[SEAL.] J. F. RANDOLPH.

Signed, sealed, and delivered in presence of—

DISTRICT OF WISCONSIN, *ss:*

L. B. Raymond and J. F. Randolph being duly sworn, each for himself, doth say on oath that he is worth the sum of five hundred dollars over and above all debts and liabilities, and above all property exempt from forced sale on execution, and that he is a citizen of the State of Wisconsin, and a resident and householder at the city of Milwaukee therein.

L. B. RAYMOND.
J. F. RANDOLPH.

Subscribed and sworn to before me this 14th day of October, A. D. 1867.

JAMES McFARLIN,
U. S. Com'r, Dist. of Wis.

Endorsed as follows: Oct. 16, 1867. This bond approved as a bond for costs, &c. A. G. Miller, district judge.

Bond on appeal from order of confirmation.

And same day (October 16, 1867) bond for costs on appeal from order of confirmation of sale of October 7, 1867, filed as follows, to wit:

Know all men by these presents, that we, Horace E. Connit, of Horicon, in the county of Dodge, in the State of Wisconsin, as principal, and L. B. Raymond and J. F. Randolph as sureties, are well and firmly bound unto the National City Bank of Milwaukee, and Anthony Green, who is the president of that bank, in the full sum of five hundred dollars, lawful money of the United States of America, to the payment of which, well and truly to be made, we bind

74 ourselves, and our and each of our heirs, executors, and administrators forever firmly by these presents.

In testimony whereof, we have hereunto set our hands and seals the 8th day of October, A. D. 1867.

Whereas Horace E. Connit and Charles H. Larabee have taken an appeal to the United States Supreme Court from the United States Circuit Court for the district of Wisconsin, from the final order of that court made on the 7th day of October, A. D. 1867, confirming the report of the marshal of sale of mortgaged premises in the suit commenced in the District Court for said district, by Lindley M. Hoffman, senior, since deceased, against William Johnson and others, in equity, and in which an order or decree of sale was made on the third day of June, 1867, by said Circuit Court, on the petition of said the National City Bank of Milwaukee, and which sale was made to said Anthony Green:

Now, therefore, the condition of the above obligation is such, that if the said Horace E. Connit and Charles H. Larrabee shall prosecute said appeal to effect, and answer all damages and costs if they shall fail to make good said appeal, then the said obligation to be null and void; otherwise to remain in full force and virtue.

[SEAL.] H. E. CONNIT.
[SEAL.] L. B. RAYMOND.
[SEAL.] J. F. RANDOLPH.

Signed, sealed, and delivered in presence of—

DISTRICT OF WISCONSIN, *ss*:

L. B. Raymond and J. F. Randolph being duly sworn, each for himself, doth say on oath that he is worth the sum of five hundred dollars over and above all debts and liabilities, and above all property exempt from forced sale on execution, and that he is a citizen of the State of Wisconsin, and a resident and householder therein.

L. B. RAYMOND.
J. F. RANDOLPH.

Subscribed and sworn to before me this 14th day of October, A. D. 1867.

JAMES McFARLIN,
U. S. Com'r, Dist. of Wis.

75 Endorsed as follows: Oct. 16, 1867. This bond approved as a bond for costs, &c. A. G. Miller, district judge.

76 UNITED STATES OF AMERICA, *District of Wisconsin, ss:*

I, Edward Kurtz, clerk of the Circuit Court of the United States of America for the district of Wisconsin, do hereby certify that I have compared the writings annexed to this certificate, and they are true copies of their respective originals, and are correct transcripts therefrom, and of the whole thereof now on file and remaining of record in my office, being a full and complete exemplification of

the record and proceedings in the suit of Lindley M. Hoffman, senior, *vs.* William Johnson *et als.*

In testimony whereof, I have hereunto set my hand and duly affixed the seal of the said court, at the city of Milwaukee, in the said district of Wisconsin, this eighteenth day of October, in the year of our Lord one thousand eight hundred and sixty-seven, and of the independence of the said United States the ninety-second.

[SEAL.] EDWARD KURTZ, *Clerk.*

77 UNITED STATES OF AMERICA, *District of Wisconsin, ss:*

The United States of America to the National City Bank of Milwaukee, assignee of William O. Hoffman, adm'r of the estate of Lindley M. Hoffman, dec'd, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be held at the city of Washington, on the first Monday of December next, pursuant to the prayer for an appeal in the Circuit Court of the United States of America for the district of Wisconsin, wherein Charles H. Larabee and Horace E. Connit are appellants, and you are appellee, to show cause, if any there be, why the decree passed against the said Charles H. Larabee and Horace E. Connit on the 3d day of June, 1867, and the order of said court of September 28, 1867, in said cause, should not be reversed, and why speedy justice should not be done to the parties in this behalf.

Witness the Honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this sixteenth day of October, in the year of our Lord one thousand eight hundred and sixty-seven, and of our independence the 92d.

A. G. MILLER,
District Judge.

Due service of the foregoing citation is hereby admitted, November 29, 1867.

JOHN W. & A. L. CARY,
Sol'rs for National City Bank of Milwaukee.

Endorsed: U. S. Circuit Court, Wisconsin. The National City Bank, assignee, &c., *vs.* William Johnson, Charles H. Larabee *et als.* Citation. Charles H. Larrabee and Horace E. Connitt, appellants, *vs.* The National City Bank, assignee, &c. Citation.